WORLD TRADING SYSTEMS

INTERNATIONAL STUDIES CONFERENCE

WORLD TRADING SYSTEMS

A STUDY OF AMERICAN AND BRITISH COMMERCIAL POLICIES

by

HENRY J. TASCA

INTERNATIONAL INSTITUTE OF INTELLECTUAL CO-OPERATION
League of Nations
PARIS 1939

This paper by Dr. Henry J. Tasca forms part of a series of monographs published by the International Institute of Intellectual Co-operation in connection with the Twelfth Session of the International Studies Conference, which will be held at Bergen from August 27th to September 2nd, 1939

It was written at the invitation of the Programme Committee, which entrusted to various experts the task of dealing, on their own responsibility, with a certain number of questions related to the general subject of study of the Conference : " Economic Policies in Relation to World Peace." This subject was defined as follows : Reciprocity, regionalism and self-sufficiency in economic policies in the modern world : their relation to the problem of national security and their effect upon the economic, financial and political relations between States.

CONTENTS

PREFACE

This report is a study of certain aspects of the external economic policies of the United States and Great Britain with particular reference to American and British trade relations with countries exercising a relatively high degree of centralized control over their external economic relations. In this way, two important world trading systems are finally brought face to face with the new system being constructed by Germany.

The author wishes to take this opportunity to acknowledge the generous and valuable assistance rendered by Professor J. B. Condliffe in the preparation of this report. All conclusions and statements of opinion, as well as any deficiencies, appearing in the study are to be attributed solely to the author.

London, August 1939. H. J. T.

CHAPTER I

INTRODUCTION

Recent developments in international economic relations have witnessed the consolidation of trade barriers and the policies which they implement into what may be more or less permanent systems of control. In many countries quantitative controls and exchange restrictions have become firmly entrenched as the primary instruments of foreign trade policy. It is not the purpose of the succeeding chapters to disentangle the complicated network of causes and effects which have led to the present situation. The essential aim of this study is to consider certain technical and economic aspects of non-tariff controls in international trade in the hope of shedding some light upon the problem of future commercial relations between nations.

The persistency of the various forms of foreign trade control created since 1929 to supplement and replace tariffs must be recognized as one of the outstanding facts of recent international economic relations. Until recently, it has been customary to regard such controls as purely temporary measures adopted under crisis conditions and fated to disappear in the near future. This view, naive as it may seem now, was taken mainly because such controls had an obviously destructive effect upon international trade. It was supported by the unco-ordinated and unmistakably emergency character of non-tariff controls, particularly at first.

In the light of recent trends, however, it is considerably more difficult to estimate the future of non-tariff trade controls. Notwithstanding the severe criticism to which they have been subjected, such controls continue in effect with no indication of their eventual disappearance. Whatever the reasons, the fact must be faced that quantitative controls and exchange restrictions will probably continue in the foreseeable future. There has, moreover, been a strong tendency to co-ordinate the various categories of non-tariff controls into single unified systems of external trade regulation. This development has formed a part of a larger trend towards the integration of external trade controls into national systems of economic regulation. Foreign trade policies have been woven inextricably into the pattern of the national economy. The extinction of such controls in the near future appears, therefore, quite dubious.[1]

[1] Some aspects of the general problem of international economic relations are presented in the last two chapters of this study.

If these observations are correct, an immediate question emerges concerning the nature of commercial relations between nations during the coming years. Viewed from the standpoint of the world economy the problem revolves about the trade relations of various systems of commercial policy.[1] The crystallization of foreign trade policies into what may be described as systems is a recent development which is still in process. It is most important that a clear understanding be obtained of the problems, possibilities and implications of rapprochement between various systems of commercial policy. Considerable confusion and apparently misdirected efforts on the part of certain countries have resulted from the failure to see clearly the issues involved.

Any classification of countries upon the basis of the kind of external trade regulation employed must necessarily be arbitrary, in varying degrees for individual countries. It is essential, however, for purposes of this study, that some classification, however arbitrary it may appear, be attempted.

Broadly speaking, it seems possible to separate countries into three groups — those containing a rigid regulation of the foreign exchanges developing into a control of imports, which may or may not be accompanied by pure quantitative controls, and well integrated with a system of national economic policy directed towards the realization of specific national aims — those without exchange control as a prime instrument of trade regulation, but with a general quantitative control of imports substantially upon a bilateral basis — and, finally, those whose import control is free of these devices and is implemented principally through tariffs. The countries falling into these groups may be designated as regulated, semi-regulated, and unregulated, respectively.

Since this study is primarily concerned with the technical aspects of commercial relations and since the technical devices employed by the semi-regulated countries have formed an integral part of developments in commercial policy in the regulated countries since 1929, it is convenient to concentrate upon the relations between the regulated and unregulated countries. Quantitative restrictions will be considered technically as being primarily a trade control of the regulated group. This is, of course, arbitrary and ignores the essential differences in purpose which may underlie the employment of quantitative controls in the semi-regulated and regulated countries. But this is not important here since the object of this study is to present the problems and pos-

[1] See *infra*, Chaper XIII.

sibilities offered by non-tariff controls in international trade as part of the broader question of international economic co-operation.

Under the classification of countries into regulated and unregulated, three cases of trade relations appear :

(i) Trade between regulated countries.
(ii) Trade between regulated and unregulated countries.
(iii) Trade between unregulated countries.

The problem of trade relations between regulated countries involves some very interesting economic questions but is beyond the scope of this study It may be remarked, however, that the purposes underlying national economic policy will exercise a very important influence on the technical development of such relations.[1] The ultimate importance of this case will depend upon the economic philosophy held, combined with the view taken regarding the lasting qualities of economic developments in certain countries as they impinge upon international economic relations. Case (iii) involves no problem from the standpoint of this study, trade being carried out generally within the framework of pre-crisis trade controls. The question of trade relations between regulated and unregulated countries, case (ii), forms the central theme of this study.[2]

In the following chapters the trade relations of the United States and Great Britain with regulated countries are examined in some detail in order to bring to light certain technical and economic aspects of such relations In Part I attention is given to the problem of non-tariff trade controls in recent American trade policy. A separate chapter is devoted to German-American relations in order to bring out the peculiar difficulties which have characterized such relations in recent years Part II presents a detailed study of aspects of Britain's external trade policy with particular reference to the question of trade relations with regulated countries. In Part III British and American

[1] Probably the most suitable medium in which such relations may be conducted upon a wide scale is that provided by trade between countries in greatly differing stages of economic development — *i e*, one agrarian and the other highly industrialized

[2] Classification of trade relations upon a multilateral basis is also possible, involving the following additional cases competition between regulated countries in neutral markets, competition between regulated and unregulated countries in neutral markets, and competition between unregulated countries in neutral markets The third country market concerned in each case, may itself be regulated or unregulated Owing to the different character of the problems and considerations involved, these instances form a separate undertaking and will not, therefore, be considered here It is hardly necessary to add that all the various categories of trade relations mentioned here are interrelated and together form the network of world trade relations.

commercial policies are compared and some of the implications of the sharp conflict in policies indicated. The last chapter endeavours to arrive at some broad generalizations regarding the problem of commercial relations between nations. The final purpose is to indicate the possibilities of fruitful economic co-operation between regulated and unregulated countries.

It will be observed that considerably greater detail of treatment is provided respecting British policy. This is necessary both because of the great lack of uniformity in the British agreements and of the lack of any thorough presentation of British commercial policy. This detailed approach has had the advantage of showing clearly the intricacies into which Britain's commercial agreements have evolved, the sharp contrast they provide as compared with the American trade agreements, and finally, the complex problems of policy to which they inevitably lead.

It is to be observed also that in the discussion of American and British policies comments have been made regarding the trade relations of each country with Soviet Russia. This has been deemed advisable principally because the growing absorption of the function of international trade on the part of Governments of certain other countries appears to be leading to a situation in some respects quite similar to the problem of commercial relations with Russia.

It may be thought that undue emphasis has been given to the principle of equality of treatment, of which the most-favoured-nation clause is the legal embodiment. It is submitted, however, that the principle of equality of treatment has not received the attention it deserves. It is significant that the partial breakdown of the principle of equality of treatment in recent years has been paralleled by the growth of State control over foreign trade. Indeed, as will be maintained later in some detail, wholesale State intervention in international trade appears to provide the antithesis of the principle of equality of treatment. This principle can be fully effective only in a régime of private capitalism and has come to be the main pillar of the liberal system of multilateral trade. The issues implicit in the problem of equality of treatment in commercial relations are, therefore, far-reaching in character.

PART ONE

ASPECTS OF AMERICAN TRADE POLICY

CHAPTER II

QUANTITATIVE PROVISIONS IN AMERICAN TRADE POLICY

In the various commercial agreements concluded by the United States under the Trade Agreements Act of 1934 and the general powers of the President over foreign relations the essential objective has been the restoration and expansion of world trade upon the basis of the principle of equality of competitive opportunity.[1] In practice, this has meant among other things, an attempt to revitalize the unconditional most-favoured-nation principle into an instrument of external economic policy applicable not only to tariffs but to all other forms of trade control. In a disjointed world economy characterized by far reaching state intervention in international trade and the foreign exchanges this endeavour has necessitated the development of certain technical devices and provisions directed towards the construction of a framework within which trade with closely regulated countries could be conducted on a basis compatible with the aims of American trade policy. This has involved the necessity of developing measures by which the principle of equality of treatment could be applied to non-tariff trade controls and of providing a basis for the expansion of reciprocal trade which did not impinge upon this principle.

To achieve the objectives set forth above the American Government has developed a set of provisions with respect to quantitative restrictions [2] These provisions refer to the general character of the treatment to be accorded American exports, and deal specifically with the establishment of global quotas, the allocation of quotas, licensing arrangements and administrative aspects of quantitative controls. In principle, the various commercial agreements, into which such provisions have been incorporated, have been quite consistent. There has, however, been some variation in their phraseology and scope. Such variations as are found have been due principally to experience with earlier commercial agreements, differences in the trading systems of the individual foreign countries with which agreements have been concluded, and finally to the exigencies of the bargaining process.

[1] For the purposes of this analysis no distinction is made between these two types of commercial agreements American tariff concessions and the specific foreign concessions for which these are given appear only in the trade agreements negotiated under the Trade Agreements Act

[2] Exchange provisions are considered in a succeeding section.

The more important of these variations will be considered in the succeeding analysis.

The most elaborate form into which such provisions have evolved is to be found in the provisions of two recent commercial agreements. In the agreement with Turkey, signed April 1, 1939,[1] Article 5 provides that no prohibition, import or customs quota, or any other form of quantitative regulation is to be imposed by either government upon products enumerated in the schedules appended to the agreement.[2] Quantitative restrictions imposed by either government in conjunction with government measures (*a*) operating to regulate or control the production, market supply or prices of like domestic articles, or (*b*) tending to increase the labour costs of production of such articles, are excepted from the operation of this provision. However, the government proposing to act under either of these contingencies must be satisfied in the case of (*a*) that quantitative restriction is necessary to secure the effective operation of such measures, and in the case of (*b*) that such measures are affecting the domestic production of the product injuriously by imports constituting "an abnormal proportion of the total consumption of such product in relation to the proportion supplied in the past by foreign countries." Finally, if either government takes advantage of these exceptions the other government may, if no mutually satisfactory agreement is reached after consultation, terminate the entire agreement.

The purpose of the first part of this provision is to safeguard the tariff concessions granted by foreign governments by consolidating the present customs treatment of the items affected. The exceptions providing for the application of quantitative restrictions to concession items are clearly intended to permit the insulation of the national economy against the effects of measures taken in conjunction with internal agricultural and industrial policies.[3] Such action, however,

[1] U. S. Department of State, *Trade Agreement between the United States and Turkey*, press release, April 1, 1939

[2] This is officially interpreted by the American authorities, in the case of Turkey, as prohibiting the application of compensation requirements. Owing to an acute shortage of foreign exchange during the early months of 1938, the Turkish Government enacted compensation regulations, effective April 7, 1938, which required specified imports to be offset by the exports of certain products from Turkey of equivalent value The word quantitative has been officially defined as referring to restrictions "based upon a predetermined amount of permitted imports", the contracting Governments have agreed that this precludes, as regards American products, the further extension of the compensation requirements of April 7, 1938 U. S. Department of State, *Press Releases*, Weekly Issues No 497, April 8, 1939, pp. 274, 285

[3] See Henry J Tasca, *The Reciprocal Trade Policy of the United States*, Humphrey Milford, Oxford University Press, London, 1939, pp. 92-95, 205

is intended to be confined, under the termination proviso, to cases in which it is clearly essential.

This article, it should be noted, refers to schedule items and to those instances in which these articles are not at the time of the negotiation of the trade agreement subject to quantitative control. Where a country already has a quantitative system in operation or where measures had been previously taken in connection with domestic policies, this article would only concern the further imposition of quantitative restrictions upon imports of the products enumerated in the schedules. Moreover, articles in the trade between the United States and the country with which an agreement is being concluded not specifically provided for in the reciprocal concessions exchanged would not fall within the purview of this article.

Much more important from the standpoint of this study is the article devised to deal with the specific application of quantitative restrictions. The best example of this article is to be found in Article II of the provisional commercial agreement concluded by the United States with Greece, signed November 15, 1938.[1]

The first paragraph of this article makes the most-favoured-nation principle generally applicable to quantitative restrictions For the clearest statement in this respect, however, it is necessary to refer to the trade agreement with Brazil which provides that should " either Government establish or maintain any form of quantitative restriction or control of the importation of any article, the growth, produce or manufacture of the other country, it will give the widest possible application to the most-favoured-nation principle and will administer any such prohibition or restriction in such a way as not to discriminate against the commerce of the other country ".[2]

There are essentially two parts to the second paragraph of the Greek article under discussion. First, the contracting Powers undertake to establish in advance the total imports permitted from all countries during any specified period, of not less than three months, of any article subject to quantitative restriction. The acting government is obliged, moreover, to inform the other government in this respect and also with regard to any increase in the global quota which may be subsequently provided. Discrimination and trade diversion through the deliberate

[1] U. S Department of State, *Press Release*, November 22, 1938.

[2] U S Department of State, " Reciprocal Trade Agreement and Supplementary Agreement between the United States and Brazil ", Article II, *Executive Agreement Series*, No. 82, 1936

withholding of any information respecting the total volume of importation permitted is thus guarded against.

Secondly, the allocation of such global quotas into national contingents is left optional with the government imposing the quantitative restriction. If allocation is decided upon, then certain corollary conditions come into force. Allocations must be established in advance for specific periods and notified to the other government. These allocations must " be equivalent to the proportion of the total importation of such article which the other country supplied during past years, account being taken in so far as practicable in appropriate cases of any special factors which may have affected or may be affecting the trade in that article ". Moreover, the commercial agreement with Italy provides for the application of this principle of allocation to all imports of the commodity into the country in question, irrespective of the nature of such imports.[1] Any obstacle, administrative or otherwise, which prevents importation in sufficient degree to fill the allotted quota is to be avoided. Finally, this paragraph provides that if the restricting government increases the global quota, the quotas allotted to the other country in the articles affected are to be expanded proportionately.

It should be observed that the paragraph just described differs from the provisions of earlier agreements. The earlier agreements negotiated by the United States provided that in the event of quantitative restrictions upon the exports of either country the government employing such restrictions undertook to allocate a national quota to imports of the article affected.[2] This provision for compulsory allocation was primarily the result of the experiences of the United States during the period when many countries employed unallocated global quotas without licensing provisions.[3] This system of " first come, first served ", led to undesirable results from the standpoint of American trade interests. The basis of the older form of this provision

[1] The memorandum of interpretation of Article VIII of the provisional commercial agreement between the United States and Italy, signed December 15, 1937, provides that the " representative " period formula is to be applied " to all imports of the regulated article, including such imports as may be made through public or private clearing, compensation, or payment arrangements " U. S. Department of State, *Treaty Information Bulletin No* 99, December 1937, p 29

[2] *e. g* U S Department of State, *Trade Agreement between the United States and Czechoslovakia*, March 15, 1938, Article VIII.

[3] In some cases allocation was made mandatory under the terms of the agreement " unless it is mutually agreed to dispense with such allotment " *e. g.* U. S Department of State " Reciprocal Trade Agreement between the United States and Switzerland ", January 9, 1936, Article VII *Executive Agreement Series, No* 90, 1936.

no longer exists since licensing is now combined with quotas in practically all countries.

The allocation of global quotas into national contingents has not, however, in all cases proved satisfactory even where licensing systems have been instituted to administer the quotas. In practice, the quotas thus allotted have tended to be maxima rather than minima so that no guaranteed share of imports accrued in fact to the United States. Again, the growth of speculation in licenses in certain countries caused applications for import permits to be submitted not for the purpose of importing but to raise the price of such licenses by withholding them from *bona fide* importers. In some cases, foreign governments have prevented the share allocated to the United States from being filled and have then proceeded to establish supplementary quotas permitting other countries to obtain part of the allocation originally allotted to the United States. In other cases, governments could establish global quotas larger than the total imports actually intended of the commodity in question and then prevent the United States from filling ts share. In addition, numerous other administrative subterfuges have been devised to control and direct the national origin of certain imports. For example, governments may bring unofficial pressure to bear upon importers so that licences are sought to import the commodities affected only from countries to which the government wishes to divert imports. Differential licence taxes, turnover taxes seasonally adjusted to favour certain countries, and even provisions regarding types of containers or packaging may be employed to affect the utilization of a country's quota contingent. Experience has shown, therefore, that the institution of licensing arrangements to administer a quota system will not necessarily simplify the problem of non-discrimination in these respects.

The discussion above assumes that it is possible to calculate national quotas in such a way as to provide for non-discriminatory treatment. Until very recently, the various commercial agreements provided that quota allotments should be based upon the proportion of the total imports of the articles in question which the United States supplied in a previous "representative" or "basic" period. Such a period has been officially defined as "a series of years during which trade in a particular article was free from restrictive measures of a discriminatory character and was not affected by unusual circumstances such as, for example, a crop failure in the case of an agricultural

product ".[1] In the commercial agreement with Greece, mentioned above, however, there is a reference not to the share of imports supplied during a " representative " period but to " the proportion of the total importation of such article which the other country supplied during past years, account being taken in so far as practicable in appropriate cases of any special factors which may have affected or may be affecting the trade in that article ".[2]

The modification in the phraseology of this device employed to determine the share to be allocated to the United States is quite significant, for actually the " representative " period formula has not proved an adequate means of safeguarding American exports against discrimination. In the first place, it is frequently impossible to find a period sufficiently representative of the present competitive relations among the various supplying countries. Again, a wide variety of results may be obtained by selecting different base periods for different commodities and by varying the percentages of total importation from all countries in the basic period permitted during the period under consideration. Far from being a device providing for non-discrimination, it may, under such circumstances, be deliberately manipulated to divert trade in accordance with the aims of foreign trade policy.

The most important objection to allocation of quotas on the basis of the " representative " period formula, however, is that even if it were a tool capable of precise application, it would still remain an essentially static concept. It makes no allowance for shifts in the relative competitive positions of the various supplying countries as a result of changes in the competitive position of various national producers. Where the dynamic economic forces behind supply and demand are altering the relative competitive position of national producers, the application of the " representative " period formula, by freezing the existing situation, causes an uneconomic canalization of

[1] U. S. Department of State, *Press Releases*, Weekly Issue No 288, April 6, 1935, p. 213. In the memorandum of interpretation of Article VIII of the commercial agreement with Italy it is stated that " the representative " base period should be one in which the trade of the other country was not being impaired by discriminations and was not seriously affected by conditions of an unusual and temporary character ". U. S Department of State, *op. cit. loc. cit* The trade agreement with Sweden provides that " in the allocation of the quantity of restricted goods which may be authorized for importation, the other country will be granted a share equivalent to the proportion of the trade which it *would normally enjoy* " (italics mine). U. S. Department of State, *Executive Agreement Series, No* 79, 1935, Article II.

[2] *Op. cit.* Article II, 2, (*b*).

trade and constitutes a serious discrimination against the country which is progressively improving its competitive position.[1]

Moreover, as the period during which the new restrictionism has been in operation lengthens, this formula becomes more and more removed from economic realities and proves less and less satisfactory as an instrument to prevent discrimination. Allocation on this basis tends, *pari passu*, to become more and more arbitrary. It remains, however, probably the only general formula which provides even a remote approximation to the desired result which after all is the assurance of a share in the total imports of a commodity which the United States would supply in the absence of quantitative restriction.

It is apparent, therefore, that the allocation of quotas on the basis of the "representative" period formula, whether or not administered by licensing arrangements, does not provide a guarantee of non-discrimination. While the new wording of this formula, described above, introduces more flexibility into the article it does not meet objections so fundamental that they involve the whole question of quantitative regulations as such.[2]

The alternative provided under the newest form of quantitative provision provides, as pointed out above, that the global quotas need not be divided into national contingents. Under existing trading systems this would mean the regulation of imports within the global quota simply by licensing arrangements. Provided that certain precautions are taken regarding the administration of the licensing arrangements instituted, this alternative possesses certain advantages — it eliminates the difficulties and discriminations which arise out of the employment of any basic period formula. Moreover, a system of unallocated global quotas leads to less administrative interference with the conduct of international trade. But considerably more important than these considerations is the fact that freer play is given to the forces of competition, in that use of import licences for imports from various countries may be governed entirely by such factors as price, quality, terms of sale, etc. In other words, trade is permitted

[1] This appears to be the case with respect to the concessions which the United Kingdom has obtained on coal and textiles in certain of its trade agreements. See *infra* Chap. VI

[2] The recent commercial agreements signed with Italy and Turkey retain the "representative" period. U. S Department of State, *op cit* p. 27, *Press Releases* Weekly Issue, No 497, April 8, 1939, p. 285

For some further considerations on this subject see League of Nations, *Equality of Treatment in the Present State of International Commercial Relations · The Most-Favoured-Nation Clause*, 1936 II B. 9.

to follow in a larger degree channels determined by the principle of comparative advantage.

In any event, it is clear that for both allocated and unallocated global quotas the prevention of discrimination through the operation of licensing arrangements becomes an important desideratum. The third paragraph of the provisional commercial agreement between the United States and Greece endeavours to provide such safeguards in the following terms :[1]

> If the Government of either country establishes or maintains such regulation, limitation, or control of the importation of an article in which the other country has an interest, it shall
>
> (*a*) Make public the regulations regarding the issuance of licenses or permits, or regarding any other method of limitation or control, before such regulations are put into force;
>
> (*b*) Administer any system of licenses or permits or any other method of limitation or control so as not to discriminate against importation from the other country, and in no manner, directly or indirectly, influence importers regarding the country from which they shall seek permission to import any such article;
>
> (*c*) Ensure that there shall be no undue delay in the issuance of licenses or permits;
>
> (*d*) Ensure that any duly qualified importer seeking to establish new, or reestablish old, trade connections with the other country, shall be given reasonable opportunity to import any such article; and upon request inform any such duly qualified importer whose application is rejected of the reasons for such rejection ;
>
> (*e*) At all times upon request advise the Government of the other country of the amount of any such article, the growth, produce, or manufacture of each exporting country, which has been imported, or for which licenses or permits for importation have been granted.

These licensing provisions, at least in their scope, are really a new development. They were directed at many of the difficulties experienced by the United States in its trade relations with countries employing licensing systems as an essential part of their import control. They make somewhat more difficult any attempt on the part of a foreign

[1] U. S. Department of State, *op. cit*

government deliberately to divert trade from the United States to other countries. On the other hand, it should also be observed that some of the most important conditions which they seek to combat are the result of the tremendous growth in administrative discretion which has characterized the recent evolution of trade controls. The possibilities of covert discrimination under any system based upon a large degree of administrative discretion are probably more far-reaching than could possibly be specifically provided against by the terms of any trade agreement. In the final analysis, it is only the goodwill of foreign governments which can at all successfully permit the American objectives to be realized.[1]

The fourth paragraph to Article II of the Greek *modus vivendi* applies the preceding provisions of this article "to any regulation, limitation, or control imposed by either Government upon the importation of such article (under quantitative restriction) at a particular rate of duty or charge". Thus, the analysis above is equally applicable to tariff quotas.

The quantitative provisions discussed above, with the exception of the article referring to restrictions regarding schedule items, concern the application of the principle of equality of treatment to quantitative controls. In the view of American authorities, these are considered a reciprocal counterpart to the grant of most-favoured-nation treatment by the United States. It remains to consider the principles underlying the quantitative concessions which the United States has secured in exchange for specific reductions in the American tariff.

From an examination of the various commercial agreements negotiated by the United States the following observations emerge. Under a system providing for the allocation of quotas into national contingents most-favoured-nation treatment represents the percentual share which the United States supplied in some previous period, which may be referred to as a "representative" period, or in the terms of the Greek agreement cited above. The calculation of an absolute minimum quota for the United States on this basis and its consolidation by

[1] It is interesting to note, in this connection, Article 10 of the trade agreement with the Netherlands which provides that "With respect to import quotas, which are now in effect or which may hereafter be established by either the United States of America or the Kingdom of the Netherlands, each Government will take *appropriate measures to facilitate as much as possible the exhaustion of such quotas*". (Italics mine) U. S. Department of State, *Trade Agreement between the United States and the Kingdom of the Netherlands*, December 20, 1935. A similar provision appears in the Protocol to the trade agreement with France. *Trade Agreement between the United States and France*, May 6, 1936.

to follow in a larger degree channels determined by the principle of comparative advantage.

In any event, it is clear that for both allocated and unallocated global quotas the prevention of discrimination through the operation of licensing arrangements becomes an important desideratum. The third paragraph of the provisional commercial agreement between the United States and Greece endeavours to provide such safeguards in the following terms :[1]

> If the Government of either country establishes or maintains such regulation, limitation, or control of the importation of an article in which the other country has an interest, it shall
>
> (*a*) Make public the regulations regarding the issuance of licenses or permits, or regarding any other method of limitation or control, before such regulations are put into force;
>
> (*b*) Administer any system of licenses or permits or any other method of limitation or control so as not to discriminate against importation from the other country, and in no manner, directly or indirectly, influence importers regarding the country from which they shall seek permission to import any such article;
>
> (*c*) Ensure that there shall be no undue delay in the issuance of licenses or permits;
>
> (*d*) Ensure that any duly qualified importer seeking to establish new, or reestablish old, trade connections with the other country, shall be given reasonable opportunity to import any such article; and upon request inform any such duly qualified importer whose application is rejected of the reasons for such rejection ;
>
> (*e*) At all times upon request advise the Government of the other country of the amount of any such article, the growth, produce, or manufacture of each exporting country, which has been imported, or for which licenses or permits for importation have been granted.

These licensing provisions, at least in their scope, are really a new development. They were directed at many of the difficulties experienced by the United States in its trade relations with countries employing licensing systems as an essential part of their import control. They make somewhat more difficult any attempt on the part of a foreign

[1] U. S Department of State, *op cit.*

government deliberately to divert trade from the United States to other countries. On the other hand, it should also be observed that some of the most important conditions which they seek to combat are the result of the tremendous growth in administrative discretion which has characterized the recent evolution of trade controls. The possibilities of covert discrimination under any system based upon a large degree of administrative discretion are probably more far-reaching than could possibly be specifically provided against by the terms of any trade agreement. In the final analysis, it is only the goodwill of foreign governments which can at all successfully permit the American objectives to be realized.[1]

The fourth paragraph to Article II of the Greek *modus vivendi* applies the preceding provisions of this article "to any regulation, limitation, or control imposed by either Government upon the importation of such article (under quantitative restriction) at a particular rate of duty or charge". Thus, the analysis above is equally applicable to tariff quotas.

The quantitative provisions discussed above, with the exception of the article referring to restrictions regarding schedule items, concern the application of the principle of equality of treatment to quantitative controls. In the view of American authorities, these are considered a reciprocal counterpart to the grant of most-favoured-nation treatment by the United States. It remains to consider the principles underlying the quantitative concessions which the United States has secured in exchange for specific reductions in the American tariff.

From an examination of the various commercial agreements negotiated by the United States the following observations emerge. Under a system providing for the allocation of quotas into national contingents most-favoured-nation treatment represents the percentual share which the United States supplied in some previous period, which may be referred to as a "representative" period, or in the terms of the Greek agreement cited above. The calculation of an absolute minimum quota for the United States on this basis and its consolidation by

[1] It is interesting to note, in this connection, Article 10 of the trade agreement with the Netherlands which provides that "With respect to import quotas, which are now in effect or which may hereafter be established by either the United States of America or the Kingdom of the Netherlands, each Government will take *appropriate measures to facilitate as much as possible the exhaustion of such quotas*" (Italics mine). U. S. Department of State, *Trade Agreement between the United States and the Kingdom of the Netherlands*, December 20, 1935. A similar provision appears in the Protocol to the trade agreement with France. *Trade Agreement between the United States and France*, May 6, 1936

incorporation into the agreement is considered the equivalent of a tariff binding and as such requires a reciprocal tariff concession by the United States. A quantum in excess of such minimum quota, in the form perhaps of a super-contingent or supplementary quota allotment, requires additional compensation. Any specified minimum quota, irrespective of its absolute size is considered by American authorities as compatible with the most-favoured-nation principle. Even if the specified minimum absolute quota on a percentual basis exceeds the share which the United States enjoyed in the preceding years, this is not considered an infringement of the policy of non-discrimination. But a percentual share, actually embodied in the terms of the agreement, in excess of imports of the product in question supplied in past years would be viewed as a violation of this principle.

This position may appear somewhat paradoxical since it may well lead to preferential treatment for American exports. The American view appears to be, however, by implication, that such a position is logically tenable so long as the United States does not reserve for itself under the provisions of a commercial agreement exclusive concessions which could not possibly be extended to other countries. Thus, if a minimum quantum quota is written into an agreement, though it may be larger than the percentual share of total imports which the United States supplied in a previous period, it does not preclude the foreign government from expanding the minimum quotas granted to other countries. Stated in other terms, the United States does not concern itself with the treatment accorded by the other contracting Power to third countries except to the extent of abstaining from seeking exclusive concessions.[1] It is only by such reasoning that the supplementary quotas granted by France to the United States, in addition to the minimum quotas calculated upon a "representative" period, can be rationalized in terms of the principle of equality of treatment.

One important result of this attitude is that greater possibilities are afforded of expanding reciprocal trade. Against this must be set the possibility of trade diversion, which is particularly strong during a period when the international trade of the country in question is shrinking.

With respect to unallocated global quotas combined with licensing provisions, such difficulties as those described above are less likely to

[1] This also means, as is acknowledged by State Department officials, that more favourable treatment may, on the other hand, be granted to a third country by the foreign government. See U. S. Department of State, *Press Releases*, May 25, 1935, p. 345

arise. The type of specific quota concession in this category obtained for American tariff concessions would probably take the form of a request for an increase in the unallocated global quota. This implies, of course, a belief on the part of the American authorities that the United States exporters of the product concerned are in a sufficiently strong competitive position to enable them to share in the quota increase. The licensing provisions would, of course, constitute an assurance that the licenses for such imports would be distributed in a fair and equitable manner. It should be observed that, to date, the policy of allocated minimum quotas has characterized American agreements containing quota concessions, rather than the policy just mentioned.[1]

[1] For details concerning quantitative restrictions in the various commercial agreements of the United States, see H J Tasca, *op cit.* pp. 207-220.

CHAPTER III

FOREIGN TRADE MONOPOLIES AND PUBLIC CONTRACTS

Commercial Relations Between the United States and Russia.

The United States has concluded several commercial agreements with the Soviet Government which endeavour to provide a basis for trade relations between the two countries. In the Agreement signed in July 1935, renewed in July 1936 for an additional year, the Russian authorities agreed substantially to increase imports of American products during the succeeding twelve months.[1] This was supported by a supplementary note in which assurances were given the American Government that Russia intended to import, during the twelve months period, American products to the extent of $30,000,000. Reciprocally, the United States extended to Russian products the benefits of the various tariff reductions made under the authority of the Trade Agreements Act.[2]

These commercial arrangements were expanded under the terms of the agreement signed on August 4, 1937,[3] Russia again promised to increase substantially its purchases of American products and in the supplementary note the Soviet authorities raised the figure of $30,000,000 to $40,000,000. In exchange for this further concession, the United States undertook to accord Russian products full unconditional most-favoured-nation treatment. Considerable advantage accrued to Russia from this provision in that it permitted the removal of a discriminatory import tax on Russian coal exported to the United States.[4] This tax was applied to coal imports from certain countries with which the United States did not have most-favoured-nation treaty relations.[5] In August 1938 this commercial agreement was renewed in identical terms for an additional twelve months period.[6]

[1] U. S Department of State, *Press Release*, July 13, 1935, July 11, 1936

[2] Tariff reductions arising out of the trade agreement with Cuba were, of course, excepted owing to the special trade relations which exist between that country and the United States.

[3] U. S. Department of State, *Executive Agreement Series*, No. 105, 1937.

[4] *Treasury Decisions, No.* 49118, August 9, 1938

[5] For details of this interesting situation, see H J Tasca, *op cit* pp. 119-120; U.S. Department of State, *Treaty Information Bulletin*, No 45, June 1933; *ibid.* No. 56, May, 1934.

[6] U. S. Department of State, *Press Releases*, Weekly Issue No 463, August 13, 1938, pp. 111-113.

Manifestly, the American Government in these arrangements departed in some degree from the general principles characterizing its commercial agreements with other countries. The purchase undertakings on the part of the Soviet Government may be viewed as an attempt to secure commercial concessions from a State foreign trade monopoly equivalent to concessions of a more orthodox nature. Moreover, in the agreements discussed above there is no reference whatever to the extension of most-favoured-nation treatment to American products by the Soviet authorities. This apparently deliberate omission might be considered as expressing the view that the most-favoured-nation clause cannot be satisfactorily applied to foreign trade under State Monopoly conditions. It must be admitted that the control and detection of discrimination in such circumstances becomes very difficult indeed.[1]

IMPORT MONOPOLIES.

The problem of equality of treatment for American exports of products, the importation of which in the foreign country is under the control of an official or semi-official monopoly organization, has been dealt with in a uniform fashion in practically all of the commercial agreements negotiated by the United States. Article VIII of the trade agreement with Switzerland which is very similar to the corresponding article in other agreements provides[2]:

> "In the event that the United States of America or Switzerland establishes or maintains a monopoly for the importation, production or sale of an article or grants exclusive privileges, formally or in effect, to one or more agencies to import, produce or sell an article, the Government of the country establishing or maintaining such monopoly, or granting such monopoly privileges, agrees that in respect of the foreign purchases of such monopoly or agency the commerce of the other country shall receive fair and equitable treatment. It is agreed that in making its foreign purchases of any article such monopoly or agency will be influenced solely by competitive considerations, such as price quality, marketability, and terms of sale."

[1] The same problems, on a smaller scale, exist with regard to import monopolies which are discussed below.

[2] U S. Department of State, *op cit.*

The commercial agreement with Italy further provides that the other contracting Power " shall supply such information with respect to the foreign purchases of every such monopoly or agency as the other Party may at any time request ".[1] Several of the trade agreements refer to considerations ordinarily taken into account by a " private commercial enterprise interested solely in purchasing such products on the most favourable terms ".[2]

In the trade agreements with Brazil, Costa Rica and Guatemala, the import monopoly article differs from that cited above in that provision is simply made for " sympathetic consideration to all representations that the other Government may make with respect to alleged discriminations against its commerce in connection with purchases by such monopoly or centralized agency ".[3]

It is easily seen that the rigid enforcement of such provisions is hardly possible. The possibilities of evasion are great and full implementation can only be secured through the goodwill of the organization and government concerned. It is quite probable, for example, that a country with frozen credits abroad, perhaps in the form of clearing balances, would sacrifice considerations of price, quality, *etc.*, in order to liquidate such claims.

In addition to such most-favoured-nation provisions, three of the American trade agreements contain definite purchase undertakings on the part of such monopoly organizations. The trade agreement with the Netherlands provides that the Netherlands will purchase 5 per cent of both its total annual wheat flour consumption and its total annual milling wheat imports from the United States.[4] In the Protocol to the trade agreement signed with the United States, France agreed that the French tobacco monopoly would purchase American tobacco to the extent of not less than 48,568,000 francs in value, and not less than 9,300,000 kilogrammes in quantity during 1936. If similar treatment is not accorded in subsequent years the United States may terminate the entire agreement.[5] A note to the commercial agreement with Czechoslovakia stated that " the Czechoslovak Tobacco Monopoly

[1] U. S. Department of State, *op cit* p 28

[2] *e g.* U. S. Department of State, *Trade Agreement between the United States and Ecuador*, Press Release, Article IX

[3] U. S. Department of State. " Reciprocal Trade Agreement between the United States and Brazil ", *Executive Agreement Series*, No 82, 1936, Article V

[4] U. S. Department of State, *op. cit* Schedule III

[5] U. S. Department of State, *op cit.* Protocol, Article XI.

will make every effort to increase the purchases of leaf tobacco of United States origin and provenance, particularly those types used for cigarettes ".[1]

PUBLIC PURCHASES AND GOVERNMENT CONTRACTS.

The rapid growth in recent years of public investment and expenditure has led to provisions in American commercial agreements regarding government purchases and public contracts. Article IV of the provisional commercial agreement with Greece reads : " It is agreed that the Government of each country in the awarding of contracts for public works and generally in the purchase of supplies, shall not discriminate against the other country in favour of any third country ".[2] The trade agreement with Turkey specifically makes this provision applicable only to public works and non-military supplies.[3]

This attempt to apply the most-favoured-nation principle is of interest because it is such an attempt and because no further specific concessions are requested in this respect. It provides a sharp contrast, for example, to the preferential economic concessions which Great Britain has obtained from Denmark with regard to public contracts.[4]

[1] U S Department of State, *op. cit*
[2] U S Department of State, *op. cit.*
[3] U. S Department of State, *op. cit.*
[4] See *infra* Chap XI

CHAPTER IV

EXCHANGE RESTRICTIONS IN AMERICAN TRADE POLICY

As with other aspects of commercial policy, the dominant force responsible for the nature of the exchange control provisions in American trade agreements has been the desire to promote international trade upon the basis of the principle of equality of treatment.[1] The many serious difficulties and problems which have been encountered in the process are clearly reflected in the history and evolution of such provisions. Indeed, far-reaching implications may be drawn from American experiences in this sphere.

Broadly speaking, three types of exchange control provisions have been evolved during the course of the new American commercial policy. The earliest and most rudimentary form, appearing in the trade agreements with Haiti and Brazil, simply extends the most-favoured-nation clause, in general terms, to régimes of exchange control.[2] This simple provision has apparently been abandoned for it has not appeared in any commercial agreement concluded subsequently to those mentioned.

In most of the succeeding commercial agreements containing exchange control provisions the following form appears. The first paragraph makes the tariff advantages accorded by the United States contingent upon the administration of exchange control " so as to insure that the nationals and commerce of the other country (the United States) will be granted a fair and equitable share in the allotment or exchange ".[3]

In the second paragraph it is provided that with respect to exchange made available for commercial transactions " as nearly as may be determined, the share of the total available exchange which is allotted to the other country shall not be less than the share employed *in a*

[1] No exchange provisions occur in the trade agreements with Belgium, Colombia, Netherlands, Switzerland, France, Canada, (November 17, 1938), and the United Kingdom With regard to France the preamble to the agreement refers to the absence of exchange control as one of the bases of the agreement. U S Department of State, *op cit*

[2] "...any advantage, favour, privilege or immunity which may be granted in connection with any such system or arrangement or the administration thereof to the nationals or commerce of any third country shall be accorded immediately and unconditionally to the nationals or commerce of the Republic of Haiti or the United States of America, respectively". U. S. Department of State, *Executive Agreement Series*, No. 78, 1935 Article VII

[3] U. S. Department of State, Reciprocal Trade Agreement between the United States and Nicaragua, *Executive Agreement Series*, No. 95, 1936, Article IX.

previous representative period prior to the establishment of any exchange control for the *settlement of commercial obligations* to the nationals of such other countries ".[1] The final paragraph provides for sympathetic consideration to representations of either government and for termination of the entire agreement in the event of no mutually satisfactory adjustment being reached.[2]

The most recent development in exchange control provisions while stemming from the same objectives constitutes, in form, a radical departure from the earlier provisions. It has been included in the recent commercial agreements with Czechoslovakia, Ecuador, Italy, and Greece. Its importance warrants full quotation. The commercial agreement with Italy signed in December 1937 provides[3] :

> If either High Contracting Party establishes or maintains, directly or indirectly, any form of control of the means of international payments, it shall, in the administration of such control
>
> (*a*) Impose no prohibition, restriction, or delay, on the transfer of payment for imports of articles, the growth, produce or manufacture of the other High Contracting Party, or on the transfer of payments necessary for and incidental to the importation of such articles;
>
> (*b*) With respect to rates of exchange, and taxes or surcharges on exchange transactions, in connection with payments for or payments necessary and incidental to the importation of articles, the growth, produce, or manufacture of the other High Contracting Party, accord unconditionally treatment no less favourable than that accorded in connection with the importation of any article, the growth, produce, or manufacture of any third country; and
>
> (*c*) With respect to all rules and formalities relating to exchange transactions in connection with payments for or payments necessary, and incidental to the importation of articles, the growth, produce, or manufacture of the other High Contracting Party, accord unconditionally treatment no less favourable than is accorded in connection with the importation of the like article, the growth produce, or manufacture of any third country.[4]

[1] *Ibid* Italics mine.

[2] This article appears in the trade agreements with Sweden, Canada, (first agreement), Honduras, Nicaragua, Guatemala, Finland, Costa Rica and El Salvador.

[3] U. S Department of State, *op cit.* p. 28.

[4] The provisional commercial agreement between the United States and Chile contains a differently worded and abbreviated provision similar in nature to the above " (*a*) The

It will be noted that the provisions respecting the transfer of foreign exchange and the rates of exchange at which allocations are permitted constitute the principal innovations. The far-reaching character of these changes, particularly the first, are chiefly the result of important defects which the general principle underlying the earlier provisions revealed in practice. Experience has definitely proved that neither the specific concessions contained in the agreements nor the assurances of equality of treatment have been safeguarded under the fair and equitable treatment *cum* "representative" period formula.

It is at once clear that quota and other concessions will be seriously impaired if the control country blocks or delays the transfer of exchange necessary to pay for American products. Certain countries have, in fact, produced such results by delaying replies to applications for exchange permits to pay for American goods; by rejection of applications, even after such a period of delay; by imposing additional requirements in connection with such application as, for example, compensation in the form of exports to the United States, or by requiring that proposed imports of American products be offset by equivalent purchases from a country with which a clearing is in operation; through rates of exchange varying with the product and the country of origin; and through numerous other administrative devices which large discretionary control makes possible.

In addition, difficulties arose which were extremely difficult of resolution even in cases in which there existed a *bona fide* intention to accord American commerce fair and equitable treatment in the sense indicated above. The question of the determining of the share of total exchange employed in the base period for the settlement of commercial obligations proved a knotty one indeed. Again, assuming the possibility of calculation, the day-to-day application of shares so determined to particular transactions provided further administrative difficulties. Moreover, the former standard article on exchange control applied to global exchange allocations for total imports from the United States, while the quantitative provisions, discussed above, referred to parti-

Government of Chile confirms its previous declarations and reiterates that it will take the steps necessary to abolish, as soon as its international economic position permits it to do so, the exchange control measures affecting the transfer of payments for articles the growth, produce or manufacture of the United States. (*b*) Until such time the Government of Chile will avoid exchange control measures involving the use of exchange rates higher than those which would be set by the free supply and demand of the market" The actual significance of (*b*) appears quite vague U. S. Department of State, *Treaty Information Bulletin*, No. 100, January 31, 1938, p. 15.

cular commodities. While theoretically this combination might conceivably have resulted in exchange being available for imports of American products, in practice this was highly unlikely. The quantitative concessions involved different base periods and minimum quotas which might percentually exceed the percentage share of the "representative" period, while the exchange article referred to one base period from which the share of total exchange allotted to the United States should be calculated. Further, exchange might not be available for particular commodities, even though the total amount of exchange allocated constituted a fair and equitable share.

From these various difficulties, combined with the inherent exchange situation of the country in question, it happened that frequent blockages and delays occurred regarding payments for American exports. In some cases, a situation occurred in which increased imports from the United States, were made under the terms of the agreement, for which transfer of exchange was impossible.

But the question of blocked payments involves much more than simply the safeguarding of trade agreement concessions. In principle, some formula such as consideration of exchange applications in chronological order or the proportional period formula with respect to individual commodities might be conceived as a satisfactory application of the principle of equality of treatment. In practice, however, abundant experience proves that the blocking of payments almost inevitably leads to discrimination.

In the case of a country having clearing arrangements with countries forming the major market for its products, the extent of blockage and delay is not wholly within the control of that country. If Greece, for example, has large blocked mark balances arising out of its clearing agreement with Germany it will endeavour to foster imports from Germany by diversion if necessary. Obviously, the existence of such balances makes blockage or delay of payments to Germany impossible. Equal treatment to the United States would require the absence of any restriction upon the transfer of payments to the United States, but the exchange position may make this impossible. This example is sufficiently representative of the situation existing in many other countries to indicate the seriousness of this problem for the United States.

It may be noted, parenthetically, that even in the case of the rare country with exchange control but no important clearing arrangements,

non-discriminatory treatment will be short lived under present conditions. Spain, for instance, endeavoured to apply the principle of equality of treatment by considering applications for exchange permits in the order in which they were received by the exchange authorities. The lengthened period of delay in transfer and consequent accumulation in blocked balances, however, led Great Britain and France in 1935-1936 to impose clearings upon Spain which terminated abruptly her régime of non-discrimination. The United States was clearly discriminated against but Spain was helpless in the face of the huge frozen claims owed to Britain and France and of her balance of trade with these countries.

Finally, the earlier provision made no reference whatever to the rates of exchange at which allocations were to be made to the United States and failed to secure assurances regarding rules and formalities relating to exchange transactions. The use of differential exchange rates, varying with the national origin of the product for which exchange is sought and with the product itself, has enabled many countries to divert their imports in accordance with national policy. Such exchange discrimination as Argentina, for example, maintains against the United States arising out of its policy of bilateral trade balancing would make any exchange control provisions or even reciprocal concessions useless unless certain assurances were obtained regarding the rates at which exchange is allocated. Similar observations obtain with respect to surcharges applying to exchange permits which vary with the country involved.[1]

Rules and formalities regarding exchange transactions can, of course, also become a source of discrimination. An example would be a case in which the exchange control authority required as a condition for allocation of exchange that the exporter grant the importer in the control country a term of credit on each transaction. Unless the same condition were imposed on imports from other countries, discrimination would result which might seriously affect American trade interests.

In the circumstances, it becomes clear that under the older form of the exchange provisions neither the trade agreement concessions nor the assurance of non-discriminatory treatment were protected in fact.

[1] In certain countries such as Iran there is a uniform surcharge on imports and a premium on exports. This becomes equivalent to a *de facto* depreciation of the currency and as such offers no problem in this connection.

What does the new article endeavour to offer in these respects? As can be gathered from the provisions quoted above from the commercial agreement with Italy, the objective of the latest exchange control provisions is to prevent the employment of such control to restrict and divert trade. Where a full trade agreement is signed, including schedules of reciprocal concessions, there is the further purpose of safeguarding the advantages of such concessions. Elaborating on these objectives further, it may be said that they rest upon the following considerations :

(1) The accumulation of blocked balances is viewed as an undesirable development from the standpoint of American trade interests as a whole.

(2) It should not be possible for countries with clearing or compensation agreements to secure immediate payment without similar treatment being granted the United States.

(3) All restrictive policies should be implemented through quantitative restrictions and not exchange control alone.

(4) Unconditional most-favoured-nation treatment should be accorded American commercial interests with respect to rates of exchange, taxes or surcharges on exchange transactions, etc., and all rules and formalities relating to exchange transactions.[1]

Little further need be remarked concerning the first, second and fourth of these propositions. It may be noted that the provision regarding rates, as applied to individual products rather than national origins, becomes of importance only regarding schedule items since here it would form the equivalent of an additional duty. Accurately speaking, it would not be of any significance from the standpoint of legal equality of treatment because it would be applied to imports from all sources.

It should also be observed that these provisions do not require that exchange control be abolished in the country with which a commercial agreement is being sought; non-commercial payments may be restricted, exchange permits required, specified conditions attached to the purchase of exchange including a specified rate and designated

[1] The rates of exchange referred to are only those fixed or materially influenced by the authorities Thus trading in "Aski" marks of the type which obtained in the United States prior to July 11, 1936, would be allowed. In the memorandum of interpretation to the commercial agreement with Italy it is suggested that, "In determining most-favoured-nation treatment with respect to rates of exchange a suitable criterion would be cross rates of exchange in some free market". U. S. Department of State, *op. cit*, p 29.

agency or agencies, exchange permits may be required as a prior condition to the granting of an import permit, *etc.*, *etc.* What is barred is discrimination in the administration of exchange control and the blocking of payments for commodities actually cleared through the customs during the life of the agreement.

This last consideration, the relation of the article only to current commercial transactions under the terms of the agreement, is a very important one. Consistent with the earlier American agreements, it means that American commercial agreements do not concern themselves with the liquidation of blocked funds arising out of previous commercial transactions.[1] Apparently, the theory behind this position is that the unfreezing of such debts would be at the expense of current trade and that it is preferable to wait until international trade recovers sufficiently to permit transfer without an undue strain on the balance of payments of the country concerned. Any other policy regarding blocked payments would probably conflict with the objectives and nature of American trade policy.[2] Where exchange resources are definitely limited, it is very difficult indeed to avoid promoting discriminatory practices in any programme directed in part to the liquidation of past debts.[3]

A most important feature of the latest provision, the third proposition mentioned above, is the attempt it makes to force the integration of exchange and quantitative controls in the foreign country with which agreement is desired, if such is not already the case. Clearly, the United States could not request a foreign government to abstain from imposing any restrictions upon the transfer of payments without at the same time permitting other devices to be employed to limit imports. During the life of the agreement the foreign country may find it necessary to control the influence of commercial imports upon its currency position. If, however, it becomes necessary to influence the balance of payments for this reason and through a restriction of

[1] It is not without significance that the only agreement containing any reference to commercial debts in arrears, relegates the undertaking to a supplementary note U.S. Department of State, *Reciprocal Trade Agreement between the United States and Brazil*, *op. cit* This was one of the earliest agreements signed by the United States

[2] For some further elaboration, see H. J Tasca, *op cit.* p 241 *et seq* This policy contrasts sharply with that pursued by Great Britain, see *infra* chapters IX-X

[3] It is hardly necessary to point out that under American commercial agreements no consideration, with some relatively minor exceptions, is given to non-commercial debts as a matter of general policy since the American trade policy is governed entirely by the objective of promoting world trade on a multilateral basis.

imports, the new provisions permit the foreign government to impose new quantitative restrictions on imports of American products. Thus, in the trade agreement with Ecuador, Article VII provides that new or additional quantitative restrictions may be placed on products the subject of trade agreement concession, and, by implication, on all non-schedule items.[1] The trade position of the United States under the application of these new restrictions is then safeguarded from discrimination, to the extent that this is possible, by the application of the various other provisions regarding quantitative controls which are incorporated into the agreement.[2]

The purpose and effect of this transfer provision is, therefore, to shift the emphasis from the exchange control article to the quantitative provisions. It is intended, further, to replace unco-ordinated dual control of imports with a single, unified system of control. The new article appears, moreover, to be based upon the view that quotas, undesirable as they may be, are less harmful than such indirect methods of restricting importation as blockage or delay in the transfer of payments. The reasons for this position lie in the considerations discussed above regarding the effect of blockage and delay upon the interests of United States trade as a whole.

It cannot be maintained that the new provisions regarding exchange control are entirely satisfactory. They may tend to promote the employment of quotas as an instrument of trade control and result in their revival even in cases in which they were previously suppressed. For example, the inclusion of such a provision in the recent trade agreement with Turkey would, under the stress of a severe shortage of foreign exchange such as occurred during the period of negotiation of the agreement, be compelled to re-instal the system of quotas abandoned in favour of tariff control some time ago. The alternative would be a violation of the terms of the agreement. It cannot be denied that this feature of the latest exchange control provision is completely alien to the trade philosophy and programme of Mr. Cordell Hull.

It may also be inquired whether such a general provision is not too far-reaching a request to present to a foreign government. For example, it may be impossible for a country whose trade is largely on

[1] U S Department of State, *op cit* "The foregoing provision shall not apply to quantitative restrictions in whatever form imposed in order to maintain the exchange value of the currency of the country."

[2] See *supra* and *ibid*, Article VIII. There is also included in the latter article a termination clause designed to prevent arbitrary recourse to this proviso

a clearing basis to restrict imports through quotas determined in accordance with American requirements of equality of treatment. The exchange difficulties may arise only with respect to a few countries and it is the products of these and not other countries whose restriction may be considered necessary. Therefore, such a country would probably consider the restriction of imports on, for example, the basis of a "representative" period as inadequate to meet its needs. It is certain that acceptance would circumscribe their freedom of action to a considerable degree. The end result would be the failure to negotiate any agreement.

Moreover, the whole theory of general provisions is involved here. Should the United States seek to provide for every contingency in its trade agreements or rely upon the general good-will of the foreign government in signing the agreement? The latter might not safeguard the American position, but this might not be possible in any event. If no spirit of co-operation exists, it is doubtful whether any set of general provisions can prevent discrimination under present systems of trade control.

If emphasis is to be shifted to the quantitative provisions, then it is essential that the latter be of a satisfactory character. However, as was indicated earlier in this analysis, real difficulties exist here. This appears to be true whether unallocated global quotas or global quotas rationed on the basis of a "representative" period formula are employed. In the great majority of the American commercial agreements the "representative" period is, in fact, provided for. The use of this formula would in the final analysis, in the circumstances here, raise all the various difficulties referred to earlier.[1]

It may be noted that the difficulties in the situation under discussion are particularly great in the case of a country which, while having the means in the form of clearing balances, "Aski" marks etc. to pay for as much or more than it can import from certain countries, does not have sufficient free exchange to pay for imports of American products if its treatment of American commerce is to be based upon the principle of equality of treatment. The situation appears less difficult in instances in which a country lacks foreign exchange to pay for imports from all sources and is determined to maintain a given value for its currency. It is, indeed, difficult to conceive of a country in the former category, of which there are probably many, accepting the latest exchange control

[1] See *supra*.

provision. If they did, it would probably be necessary for the United States to adopt a more flexible policy regarding quotas. This, in turn, might easily imply the abandonment of the principles underlying the present quantitative provisions.

In the more difficult case described above, it should be pointed out that an important factor in the situation is the state of the trade balance of the country concerned with the United States. It is an interesting fact that in every instance, except Italy, in which the United States has been able to incorporate the latest exchange provisions it has had a passive balance of trade. Regarding Italy there are important invisible items in the bilateral balance of payments with the United States which probably, on balance, give Italy an active position when both merchandise and invisible items are considered. Manifestly, such an excess of inward over outward payments on commercial account facilitates, other factors remaining the same, the acceptance of the new exchange article.

It is, of course, true that the United States was not able to include this exchange control provision in the Turkish-American agreement of April 1, 1939. Perhaps the outstanding difficulty here, however, was the fact that during the course of the trade agreement negotiations American imports from Turkey declined greatly while exports to Turkey continued to expand sharply. The result was an acute shortage of free foreign exchange, which led to the suspension of all foreign exchange payments for imports (with certain limited exceptions) from May 11, 1938, to late December 1938.[1] Obviously, with a recent experience such as this in mind, the Turkish Government would, to say the least, be quite reluctant to accept a provision which would prevent any blocking of payments whatsoever on current commercial account. Moreover, it would also appear that the further re-introduction of quotas on American products, which the exchange provision might require, would have been contrary to the Turkish policy of replacing, under certain conditions, quantitative restrictions with tariff controls.[2]

The provisions which have been adopted in the Turkish agreement, though basically of the type provided in the earlier agreements, have been subjected to important modifications. The Turkish Government under Article 9 agreed to provide an amount of free foreign exchange

[1] See U. S. Department of State, *Press Releases*, Weekly Issue No. 497, April 8, 1939, pp. 273-274

[2] *Ibid*

"...not less, in proportion to the total value of the commercial imports of the Turkish Republic during the said calendar year, than the amount corresponding to the proportion of the total commercial imports supplied by the United States of America from January 1, 1935 to December 31, 1937."[1] It will be noted that, because by far the larger proportion of Turkey's trade is conducted under clearing, reference is made to total commercial imports rather than to total exchange allocations in the basic period.

In the note appended to the agreement further conditions appear. From the total commercial imports, for purposes of this provision, are to be deducted commercial imports resulting from the credit arrangements concluded in 1938 between Turkey and the United Kingdom and Germany, in so far as they exceed payments under the terms of the agreements with these countries. "This deduction has been decided upon for the reason that the total value of commercial imports into the Turkish Republic will be temporarily increased to an abnormal extent by imports under governmental credits mentioned above".[2] By implication, transfer delay, and possibly blockage, is anticipated as a possibility for it is further provided that the free foreign exchange made available under the terms of the agreement is to be employed to transfer payments in the chronological order in which applications for exchange are offered. Further, this note states that the exchange undertakings on the part of Turkey do not preclude seasonal delays in making available free foreign exchange.[3] Finally, if the Turkish Government is unable, because of a lack of free foreign exchange, to fulfill the undertaking provided in Article 9, provision is made for consultation with the purpose of arriving at an arrangement satisfactory to both Governments.

It may be remarked in passing that the dependence upon the bilateral trade balance for the success of American trade policy in the direction of exchange control raises fundamental doubts as to the real effects of that policy in promoting the principle of equality of treatment. In fact, can one speak accurately of equality of treatment under such conditions? There are vital issues involved here which go to the heart of the problem of economic rapprochement between countries with radically different trade policies.

[1] U. S. Department of State, Press Release, *Trade Agreement between the United States of America and Turkey*, April 1, 1939 This is established at 10 91 per cent.

[2] *Ibid*

[3] *i e*, owing to the fact that the sale of products constituting the principal source of free foreign exchange has a seasonal character

CHAPTER V

PHASES OF AMERICAN COMMERCIAL RELATIONS WITH GERMANY

As the leading exponent of bilateralism Germany's trade relations with the United States are of particular interest to this study. The adoption of the New Plan for Foreign Trade by Germany in September 1934 marked the final break with the most-favoured-nation principle of equality of treatment and the multilateral system of trade.[1] This new policy involved strict bilateral trade relations with individual countries implemented by the negotiation of special agreements with each country. As a consequence of this policy, the German Government denounced the most-favoured-nation commercial treaty of 1923 with the United States almost immediately after the New Plan went into effect.[2] From the standpoint of the United States this meant that when the denunciation became effective, one year from date, there would be no legal obligation to accord to German products the benefits of the conventional tariff rates which were to be constructed under the newly enacted tariff bargaining act of June 12, 1934.

In the interim period, prior to the effective date of the denunciation of the 1923 treaty, the signing of a trade agreement with Belgium made it necessary for the American Government to define the conditions under which the new minimum tariff would be extended to other countries. The criterion of generalisation finally established rested upon the existence in any foreign country of a "substantial" degree of discrimination against American exports.[3] In the first classification of countries under the generalization policy of the United States, Germany was included among the countries which were to receive the benefits of trade agreement reductions in the American tariff until the Treasury was notified by the President of the effective termination of the legal most-favoured-nation obligations of the United States towards such countries.[4] In practice, this meant that Germany was considered

[1] C W Guillebaud, *The Economic Recovery of Germany*, Macmillan & Co , Ltd , London, 1939, pp 67-72

[2] U S. Department of State, *Treaty Information Bulletin* No 61, October 1934, pp 19-20

[3] For a detailed account of the problems and operation of American most-favoured-nation policy of generalization under the new trade agreements programme see H J. Tasca, *op cit*, p 147 *et seq*

[4] U. S Department of State, *Press Releases*, Weekly Issue No 288, April 16 1935 pp. 216-217

to be substantially discriminating against the United States but that because of the most-favoured-nation provisions of the 1923 treaty, which were still in effect, combined with the possibility of negotiating some mutually satisfactory agreement in the interim period, she would continue to receive most-favoured-nation treatment.[1]

The termination of the most-favoured-nation provisions of this treaty finally became effective in October 1935.[2] The absence of any agreement with Germany regarding a mutually satisfactory basis of reciprocal trade relations and the denunciation, initiated by Germany, of the most-favoured-nation clause compelled the United States to remove Germany from the list of countries receiving the minimum tariff being negotiated into existence. Germany was, therefore, placed on the so-called "black list", and German products have since been subject to the maximum Hawley-Smoot tariff of 1930.[3] With respect to American exports to Germany the only change was a *de jure* recognition of a *de facto* situation. The shift of American products from the conventional to the autonomous tariff list meant little under the rigid exchange control of the New Plan which regulated imports from the United States.[4]

The problem of German-American relations remained an acute one and under German exchange control trade continued to shrink precipitously. It became clear that at the official dollar-reichsmark rate very little trade could take place for the "parity" mark was highly overvalued in terms of dollars while imports from the United States which might have been stimulated under ordinary conditions were in fact severely suppressed by the German Government. Imports of products customarily supplied by the United States were, in accordance with the New Plan, diverted to countries willing to trade on a bilateral basis.[5]

[1] The other countries in this group were Denmark, Italy, and Portugal and its colonies

[2] U. S Department of State, *Treaty Information Bulletin* No 73, October 1935, p. 13 By an agreement signed on June 3, 1935, the abrogation was restricted to the most-favoured-nation provisions U S. Department of State, *Press Releases*, Weekly Issue No. 297, June 8, 1935, p 424

[3] *Treasury Decisions* No 47865, September 1935, *Letter from the President to the Secretary of the Treasury*, Press Release, December 2, 1935

[4] German denunciation of the most-favoured-nation provisions of the treaty of 1923 appears to have been from a purely German view, something of a tactical blunder Other countries were, and are, pursuing a substantially similar bilateral discriminatory policy but owing to the absence of a fully defined and clear-cut American policy of generalization have continued to receive most-favoured-nation treatment from the United States It is probable, however, that sooner or later political considerations would have brought the same result about For some further comments see H J Tasca, *op cit.*

[5] See Carl-Hermann Müller, *Grundriss der Devisenbewirtschaftung*, Spaeth & Linde, Berlin, 1938, p. 256 *et seq.*

To overcome some of the difficulties which confronted the bilateral trade between the two countries a considerable development of "Aski" and barter trade occurred during 1935 and the first half of 1936.[1] "Aski" marks were derived from payments by German importers for specified products into special bank accounts and were available to pay for specified German products exported to the country from which the imports originated for which payment was made into the special "inland" account. Such accounts required the special permission of the German Government which also designated the categories of goods which might be traded on an "Aski" basis. These circumstances enabled the German Government to depreciate the "Aski" mark independently of the official mark.[2] Combining this *de facto* depreciation with export subsidies the German Government bridged, or even exceeded, the price gap between German and American prices which obtained at official dollar-reichsmark rate of exchange.

Under these conditions, it may be observed, German-American trade was conducted upon a rigid bilateral basis of a kind against which the American Secretary of State and other officials of the Department or State had inveighed on numerous occasions.[3]

The Treasury Department, however, became interested in the character of this bilateral trade for under mandatory Section 303 of the Tariff Act of 1930 it has the duty of imposing countervailing duties against imports from any foreign country which are affected by Government subsidies. In June 1936, therefore, the Treasury announced that "Official reports and other data in the files of the Department establish to its satisfaction that bounties and /or grants are paid and/ or bestowed, directly or indirectly, on the export to the United States of articles of the kind named below...".[4] Countervailing duties ranging from 22½ per cent to 56 per cent *ad valorem* were imposed upon ten categories of goods.[5]

The German Government, which had already been somewhat

[1] Germany imports a number of indispensable raw materials, such as cotton and copper, from the United States "Aski" represents an abbrevitiaon of *Ausländer-Sonderkonten fur Inlandszahlungen*

[2] The extent of depreciation could be varied for different countries according to the purposes of the German Government.

[3] See the various addresses appearing in the *Commercial Policy Series* of the Department of State.

[4] *Treasury Decisions* 48360, June 4, 1936.

[5] The articles so named were cameras, china tableware, cotton and rayon gloves, leather gloves, surgical instruments, calf and kid leather, glass tree ornaments, metal covered paper, thumb tacks, dolls, and toy figures

dissatisfied with the operation of the "Aski" system, then gave assurances to the United States that it would not subsidize any longer directly or indirectly, exports to the United States.[1] This took the form of a circular order issued on July 31, 1936, effective August 3, 1936, by the German Foreign Exchange Control Board prohibiting barter transactions and the use of both "Aski" and registered marks in trade with the United States.[2] With these assurances in hand the Treasury ordered the suspension of countervailing duties against German products announcing that "the German Government has taken measures to insure that no scrip or bond procedure was or will be allowed, no public or private bounty or subsidy was or will be paid, and that the use of no German currency other than free gold exchange marks or free inland marks was or will be permitted".[3]

German importers and exporters were, however, greatly concerned over this turn of events for it was realized that Germany could not sell a substantial proportion of the goods still exported to the United States unless some means of at least bridging the price gap which existed in terms of official reichsmarks were provided.[4] A number of German products which had heretofore been exchanged against American products (especially cotton) were not competitive in the American market without the possibility of price adjustment offered by these devices. Unless there were some relaxation of the American Government's position a drastic decline in the bilateral trade between the two countries was bound to occur.

Early in October 1936 the Treasury Department of the United States issued a statement containing a number of actual and hypothetical cases in which the United States would not impose countervailing duties on German products despite the limited use of blocked marks.[5]

[1] It was maintained that they yielded no free foreign exchange to the Reich in spite of the fact that Germany possessed a practical monopoly for certain products used in such transactions, *i e*, they did not lead to "additional exports", that they led to the importation of articles not properly classifiable as essential materials, and that they tended to raise import prices and depress export prices. *Voelkischer Beobachter*, November 24, 1936 Modifications were subsequently made in "Aski" procedure intended to correct these conditions

[2] Register marks developed out of short term banking credits to Germany prior to the 1931 crisis which have been the subject of the Standstill Agreements

[3] *Treasury Decisions*, 48463, August 4, 1936, and 48479, August 14, 1936 Scrip and bond procedure were methods of subsidizing German exports For details see Department of Overseas Trade, *Economic Conditions in Germany*, March 16, 1936, pp 156-158.

[4] Dr Schacht's organ *Der Deutsche Volkswirt* of August 14, 1936, maintained that trade would be extremely difficult under the new conditions.

[5] *Treasury Decisions* No 48479, October 1936.

The most important effect of this statement was to permit the sale of cotton, and other commodities, to Germany at an overprice or premium, the proceeds of which could be used to buy German goods "in the open market", purchased and imported for the actual account of the American exporter. In addition, it appeared that goods imported into the United States under a contract entered into prior to August 3,1936, could be paid for, to the extent of 95 per cent, with registered marks originally and continuously owned by the American importer.[1] In both cases the German products involved were not to be resold, nor any agreement to resell made, prior to their importation and clearance through the customs. Finally, an American manufacturer could export to his German subsidiary, goods invoiced in dollars, and purchase German goods from its subsidiary or goods acquired by its subsidiary from other German producers. The German products affected were to be billed in reichsmarks. While it was further provided that all balances due had to be settled at the "parity" dollar-mark rate and no direct or indirect subsidy or compensation premium could be employed, in practice, as was true of the preceding case, there was little possibility of effectively policing these provisos.

The above cases were clearly *ad hoc* in character. On December 23, 1936, the Treasury issued a full statement setting out in general terms the types of procedures for the payment of German imports into the United States which would not be regarded as contravening Section 303 of the Tariff Act of 1930.[2] The following procedures were permitted :

> "(1) Payment of the purchase price, in whole or in part, with the use of controlled mark credits, provided that the credits so used have been, from the time they became subject to German governmental control, continuously owned by the person for whose actual account the merchandise is purchased for direct or indirect shipment to the United States.
>
> (2) Payment of the purchase price, in whole or in part, with the proceeds of the sale in Germany of merchandise exported from the United States, provided that such proceeds, until so used, have been continously owned by the person for whose actual account

[1] It was specifically stated that no bond or scrip procedure or any public or private subsidy was to be applied to the shipment

[2] U S Treasury Department, *Press Service No* 9-25, December 23, 1936.

the American merchandise is sold in Germany and the German goods are purchased in that country.

(3) Combinations of the foregoing two procedures.

(4) Exchange of merchandise between single German and American parties without any monetary transaction actually taking place.

" The foregoing contemplates that the purchase of German goods will be made for the actual account of the original and continuous owner of the controlled mark credits used, or of the American vendor of the German exports sold in Germany, and that in no case will the German funds of such owner or vendor be used to purchase German products for the account of any other person or organization; and likewise that the German products exchanged for American goods in any permitted barter transaction will be received for the actual account of the person or organization for whose actual account the American exports were shipped to Germany."

The first procedure specified above potentially offered wide avenues of employment for blocked mark accounts in Germany since there was no restriction placed upon the origin of the controlled mark credits to be used in payment of the purchase price of exports to the United States. Thus, it would appear that imports from third countries, trade and financial debts due to such countries, and re-exports of American products from Germany might be financed in this fashion. Conceivably, new controlled mark credits could even be created through third country trade and financial operations and then settled, from the German side by the exports of German products to the United States. It is believed, however, that the practical importance of this procedure rested upon the possibility of liquidating financial and trade debts due to the United States. It would hardly have been, it may be added, to the immediate interest of the German authorities to encourage this latter process since they brought the Third Reich neither much needed foreign exchange nor essential imports.

Under the second procedure, " Aski " mark trade was apparently made legal again. American imports could be paid for with the proceeds of American exports to Germany. It should be noted that such proceeds were payable in reichsmarks which were not freely utilizable in Germany and could not be transferred or negotiated into any other type of reichmark. Such reichsmarks could only be used to pay the purchase price of German products to be sold and consumed in the United States.

It appears to follow from these observations that the value of these marks could not be determined or quoted for purposes of Section 303 of the Tariff Act of 1930. Hence, there was no suitable method by which the Treasury could calculate whether such German goods as were imported under these facilities were affected by an overprice in terms of these American "Aski" marks.[1] In these circumstances, an overprice could be employed to bridge or exceed the span between American and German prices expressed in terms of "parity" marks.[2]

Under the third procedure, both methods of paying for German goods imported into the United States could be combined — part of the purchase price being paid with controlled mark credits of various varieties and part with American "Aski" marks. The fourth procedure provided for pure barter.

It seems difficult to perceive the real differences in the conditions under which trade was permitted after the December 1936 Treasury release, and the circumstances which led to the imposition of countervailing duties earlier in that year. Moreover, under the new procedures, it would appear that considerable room was purposely provided for enabling German exports to move to the United States. In reality, as was noted earlier, unless Germany were permitted to sell German products in the United States at an exchange rate considerably lower than the largely fictitious "par" dollar-mark rate, combined in practice with export subsidies, a large proportion of the German exports to the United States could not have taken place. If the intention of the Treasury was to facilitate German-American trade it must have had these conditions in mind.[3]

Following this release by the Treasury Department, transactions involving the importation into Germany of American cotton, cotton linters, and cotton waste, and the exportation to the United States of a confidential list of German products were authorized by the German Government. So far as is known, only cotton has been officially

[1] The German authorities do not refer to such accounts as "Aski" but described them as "Inland" Accounts "Aski" as used in American trade might be considered a variety of regular private "Aski" account — the so-called "Firm Aski" as distinguished from "Bank Aski".

[2] For purposes of this study a distinction is drawn between export subsidies as such, and attempts to overcome price disparities through a premium or overprice paid for German imports. It should be noted that Germany might have used either device alone for the service of bridging the price gap. In practice both are employed for the purpose.

[3] There was no indication in the Treasury release as to how German direct subsidies, on exports, as contrasted with this overprice paid on imports from the United States, was to be detected — a difficult task indeed

provided for by the German Government under these procedures. The new Treasury position enabled Germany to import American cotton without any use of free foreign exchange.[1] In commenting upon these procedures the Department of Commerce of the United States made the following announcement[2] :

> "It is understood that under this procedure American importers of German goods are able to sell American cotton in Germany at a price (in reichsmarks) usually 33 1/3 % higher than the world market price at the official exchange rate. They thus make a profit which enables them to buy German products at the normal domestic price and to sell them, after importation into the United States, at little or no profit."

From a general policy standpoint a number of objections could be raised against the Treasury position described above.[3] In the first place official sanction was given to a type of bilateral trade which the Secretary of State and other officials of the Department of State had decried upon numerous occasions.[4] Such trade is clearly the antithesis of the principle of multilateral trade underlying the current trade bargaining programme of the United States. In fact, it was on the ground of fundamental inconsistencies between the two policies that the Department of State rejected a German proposal in May 1935 that the two Governments conclude a trade agreement.[5] It should also be noted that logically the same facilities might be given to other countries with difficult exchange problems, with the result that the American Government would find itself pursuing two conflicting and inconsistent policies simultaneously. In this event the practical effect would be a great weakening in the most-favoured-nation position of the United States and a serious decline in the significance of the current trade policy of the United States as an instrument for the promotion of international trade upon an orthodox basis.

[1] Cotton is, of course, an indispensable import for the German Reich, being required for the textile, war and other industries

[2] U S Department of Commerce, "Regulations Governing German Trade with the United States under Inland Accounts or Cotton Barter System" *Special Circular* No 426, July 15, 1938

[3] That is aside from the question of fulfilling the mandatory provisions of Section 303 regarding subsidized imports It may be noted that this provision has led the United States into a very inconsistent position since it is also subsidizing exports to foreign countries.

[4] U S. Department of State, *Commercial Policy Series*

[5] U. S Department of State, *Press Releases*, Weekly Issue, No 303, July 20, 1935, p 75. From the standpoint of this study the bilateral aspect is the significant aspect rather than the possible use of export subsidies

The inconsistency which the Treasury release created in relation to the general foreign trade policy being pursued under the *aegis* of the Department of State led to a remarkable anomaly, especially in the eyes of Germany. During the summer of 1937, the Department of State welcomed an official Brazilian Economic and Financial Mission to the United States to Washington which was to consider, *inter alia*, the methods by which the effects of German "Aski" trading with Brazil upon American exports could be eliminated. It appears that the United States considered that the customs concessions which it had obtained from Brazil under the trade agreement, effective January 1, 1936, had been seriously infringed by German "Aski" or compensation trade. On July 16, 1937, the two Governments issued a *communiqué* which referred to the agreement reached on various complementary measures to be adopted to combat the trading methods pursued by certain countries.[1]

During this period German-American commercial relations were, as was shown above, conducted on practically the same basis as that which the American Government was requesting Brazil to suppress. This anomalous situation, the result of inadequate inter-departmental co-ordination in Washington, was commented upon by the Brazilian Ambassador to Washington, now the Minister of Foreign Affairs, at a meeting of the National Foreign Trade Convention held in Cleveland, Ohio, in November 1937. After condemning "Aski" trading in rather severe terms and referring to American "Aski" trade, he remarked that Brazil was "doing more to put an end to this type of trade than the United States".[2] Brazil has in fact got into severe difficulties with Germany over the question of compensation trade for which Brazilian officials have expressed a keen dislike.[3]

The Germans themselves appeared to have been quite confused over the American position *vis-à-vis* Brazilian-German trade relations since practically the same type of trade had been officially approved by the American Treasury under the release quoted above.[4]

In August 1938, Dr. Rudolph Brinkman, State Secretary of the

[1] For a more detailed account see Department of Overseas Trade, *Report on Economic and Commercial Conditions in Brazil*, October 15, 1937, pp 30-36

[2] *Twenty-Fourth National Foreign Trade Convention*, Cleveland, November 3-5, 1937 pp. 253-257, *New York Times*, November 5, 1937.

[3] See *e g*, *New York Times*, July 17, 1938 "Historia Verdadeiria Dos Marcos De Compensaçào", *Correio Da Manha*, July 1, 1937. This offers a valuable lengthy and official presentation of German-Brazilian commercial relations

[4] *e g*, *Der Deutsche Volkswirt*, July 23, 1937.

German Economics Ministry, in an address before the American Chamber of Commerce in Berlin asked for a trade agreement with the United States on a bilateral basis.[1] At a press conference on the following day, the American Secretary of State, Cordell Hull, was asked to comment upon Dr. Brinkman's proposal. The substance of his reply, rejecting the offer, was reported as follows [2] :

> " The Secretary of State said that he would naturally be glad to find a basis for increasing our trade with Germany, and that a great deal of study had been given to that matter during the past few years. The system under which Germany operates, however, is bilateralism and barter. Not only is this contrary to the principles upon which the United States is making its agreements, but, upon the basis of past experience, bilateralism results in a balance of trade at a lower and not a higher figure, and hence does not increase world trade."
>
> " Therefore, the Secretary continued, as sympathetic as this country is to increasing its trade with Germany, it has been, up to now, most difficult to find a basis for a trade agreement."

It is clear from this statement that the Department of State and the Treasury did not see eye to eye in the question of German-American commercial relations.

In spite of the Treasury procedures, however, the trade between the two countries improved very little, although American exports of cotton were maintained in volume by the " Aski " and barter procedures. The source of difficulty was, at least proximately, the German New Plan which required balanced imports and exports with each country,[3] combined with a national economic policy which made the isolation of the national price structure from other price systems a fundamental aim of policy. The growing number of trade agreements negotiated by the United States has, moreover, placed a heavier burden upon Germany's competitive position in the American market. Most-favoured-nation treatment means now a minimum tariff of sufficient importance to make a trade agreement with the United States, removing Germany from the " black list ", quite desirable.

[1] *New York Times*, August 18, 1938

[2] *New York Times*, August 19, 1938 The Secretary's reply led Mr. Walther Funk, German Minister of Economics, to defend German trade policy by referring to the " new system of world trade " which Germany was building up. *New York Times*, August 22, 1938.

[3] This has been probably further aggravated by the negotiation of clearing and payments agreements by Western European countries with Germany. America's export surplus was in part at least formerly settled through Germany's creditor position on trade account with these countries.

The latest phase in German-American economic relations began on March 23, 1939, when the Treasury Department of the United States re-imposed countervailing duties upon German products imported into the United States.[1] It was found that the " importation into the United States of merchandise from Germany is financed by means of premium prices for certain products, particularly cotton and copper ". Accordingly, anti-bounty duties at the rate of 25 per cent *ad valorem* were provided for German products " imported directly or indirectly from Germany, which has been or shall be acquired by or through the disposal of other goods on a premium basis (regardless of the character of such other goods or of the method or means of such disposal) ".[2] Thus, the Treasury appears to have completely reversed itself and outlawed transactions which it had previously specifically approved.

Various reasons for this *volte-face* might be deduced. The realization of the commercial policy conflict, dissatisfaction with the operation of the December 23, 1936 release, which after all placed the full administration and operation of the procedures in the hands of German authorities without any real possibility of effectively policing the regulations, and finally, perhaps most important, the German subjugation of Czecho-Slovakia were probably all motivating factors in some degree.

It must be apparent that the net effect of the new decision will be to restrict German-American trade further The present condition of the relations between the two countries is well illustrated by the following statement recently made by the American Secretary of State[3] :

> " During the past few years Germany has diverted from the United States much trade that had grown up because private business interests in both countries found it profitable. Both peoples found that such trade contributed to their economic welfare. Diversion and reduction of this trade was made solely to serve German purposes. The result was broad and decisive discrimination against American exports. American exports trying to enter Germany must face elaborate controls imposed by the German Government and must compete with special

[1] *Treasury Decisions* No 49821, March 23, 1939

[2] It would be interesting to discover how the German " bounty " was calculated to be 25 per cent.

[3] U. S Department of State, *Press Releases*, Weekly Issue No. 497, April 8, 1939, p. 264 The relations between the two countries have been also worsened by the German defaults and discrimination regarding long term debt payments due Americans

barter agreements which Germany has set up. American trade cannot satisfactorily fit itself into the crevices of German need left by the barter agreements that Germany has already executed with other countries. It does not have to, nor would its interest be served by doing so."

Aside from the political difficulties, which appear stronger than ever, the basic issue is the radical difference in the conceptions of international trade, and economic life in general, which both countries cling to tenaciously.[1] In the sphere of commercial policy the contrast is indeed sharp — basically one between governmentally directed bilateralism implemented through a discriminating monopoly of foreign trade as against a system resting upon the orthodox conception of multilateralism in trade and payments carried out through private initiative and enterprise. The problem of German-American trade in the final analysis really derives from the impact of two systems sharply contrasting in their underlying philosophies of economic organization both as to ends and to means.[2]

[1] Compare, for example, the address by Herr Funk referred to above and that by Dr. H. L. Deimel, an official of the Department of State, *New York Times*, August 22, 1938, and "The Trade Agreements and the Liberal System of International Trade", U. S. Department of State, *Press Releases*, Weekly Issue No. 498, April 15, 1939, p. 311, respectively.

[2] It is interesting to note that the Washington authorities are now considering the imposition of countervailing duties upon certain imports from Italy. *New York Times*, June 25, 1939.

PART TWO

ASPECTS OF BRITISH COMMERCIAL POLICY

CHAPTER VI

QUANTITATIVE CONTROLS UNDER BRITISH COMMERCIAL TREATIES

Application of the Most-Favoured-Nation Principle.

An examination of the provisions in British trade agreements regarding quantitative controls in foreign countries yields no single thread of consistency or continuity. For this reason it will be necessary, as in the succeeding sections on financial aspects, to employ a more particularized analysis than was used for American trade policy. Viewed broadly, however, it appears possible to differentiate between treaty provisions clearly aimed at securing equality of treatment for British exports and those directed towards an expansion of export outlets without any regard to the position of third countries. The latter have been far more numerous than the former. In certain cases, in the absence of any definitive data, either in the texts of the agreements themselves or in other official sources, the true character of the provisions appears only when read in the light of their full context. Such cases do not offer serious difficulties of interpretation when this procedure is followed.

The case which will be argued subsequently in some detail rests in part upon the assumption that the British Government has not only been completely aware of the various formulations of quantitative provisions and their implications for trade policy, but has shaped them according to the officially conceived purpose of the agreements. It is essential, therefore, at the outset to consider briefly the character of certain quantitative provisions regarding the imports of agricultural products into the United Kingdom from trade agreement countries.

One consistent thread in the pattern of commercial agreements constructed by the British Government has been the endeavour to apply the principle of equality of competitive opportunity to the quantitative regulation of agricultural imports the domestic production of which is subject to marketing controls. Provisions towards this end are to be found in practically all of the trade agreements with countries supplying these products to the British market. Under the terms of the trade agreement with Poland of February 27, 1935, for example, the British Government undertakes to refrain from quantitative regulation of specified agricultural imports except as may be necessary to secure the

effective operation of marketing schemes for the domestic production of the commodities concerned.[1] In the event of such regulation of imports being imposed, the British Government undertakes to observe certain conditions regarding the operation of the regulations adopted. " An equitable share of permitted imports having regard to the position which the Polish Customs Territory has held in past years as a supplier of these products to the United Kingdom market " is to be allotted to Poland[2]. Such allocations are to be made on the same basis and on as favourable conditions as those made to any other foreign country. In the event of any increase in the global quota, or the share of some other foreign supplier being re-allocated to other countries, the above formula is to be used to determine Poland's share in the new global quota established.

With respect to butter, the British Government further promised to give due weight to the fact that Polish exports of butter in the years 1932 and 1933 were unusually small so that statistical allocation on a basis which included those years might not adequately represent the actual position of the Polish Customs Territory in the United Kingdom butter market."[3] In Part II of the Protocol, this latter assurance is generalized to cover all Polish exports by a British undertaking to consider the recent development of Poland's export trade and " other temporary causes affecting particular years ".

Article 9 of the Anglo-Polish agreement extends the provisions to British colonies, territories, and mandates. If global quotas are allocated into national contingents, Polish products are to receive "an equitable share of the permitted imports from foreign countries " and " no discrimination will in any event be exercised " against Polish exports.[4]

These provisions demonstrate an unequivocal attempt to assure the operation of quantitative control of imports into the United Kingdom on a substantially non-discriminatory basis. A flexible variety of the basic period formula is employed which, recognizing the difficulties implicit in any formula based upon past trade, attempts to take all relevant circumstances into account. There is, moreover, positive indication of an intention to allot such proportional shares to foreign

[1] Article 7, *Cmd.* 4984.

[2] The trade agreement with Argentina, signed December 1, 1936, refers to " recent years " and also obliges the British Government to " take all relevant circumstances into account in establishing national quotas ". Article 3, *Cmd* 5324.

[3] *Op. cit.* Article 8.

[4] *Ibid* Article 9

countries as they would probably supply in the absence of quantitative restriction. The adequacy of such measures to attain these objectives is not the significant aspect of this endeavour. What is important, as will presently appear, is the attempt itself to relate the principle of equality of treatment to the quantitative control of imports.

In analysing the provisions in British trade agreements regarding the application of quantitative controls to British exports reference may first be made to certain treaties negotiated during the great depression, before the adoption in 1932 of an active trade bargaining policy. In the treaties of commerce and navigation between the United Kingdom, on one hand, and Rumania, Turkey and Yugoslavia on the other, provision is made in general terms for the application of the principle of equality of treatment to prohibitions and restrictions.[1] These treaties also contain stipulations concerning the administration of licensing arrangement under conditions as favourable as those "under which licences are given for the goods of any other foreign country". Finally, if national contingents are fixed the "formalities required by the importing country should not be such as to prevent an equitable allocation of the quantity of goods of which the importation is authorized".[2]

With further regard to the most-favoured-nation principle, it may be said that in the relatively few instances in which it has been clearly provided for since 1932 it has appeared in both in broad general form and in detail along the lines of the Polish provisions discussed above. The former has been included in the British treaty of commerce and navigation with Peru, signed on October 6, 1936, which provides that products of each country "shall enjoy unconditionally most-favoured-nation treatment in Peru and in the United Kingdom respectively. In particular, they shall not be subject on importation, or subsequently... to other prohibitions or restrictions, or to other or more onerous customs formalities or licensing requirements than those to which like goods produced or manufactured in any other foreign country

[1] Rumania, August 6, 1930, Turkey, March 1, 1930; Yugoslavia, May 12, 1931. *Handbook of Commercial Treaties*, Fourth Edition, pp. 581-2, 682-3, 734-5, respectively. The relevant articles in all three agreements are phrased in practically identical terms. In the Yugoslav treaty there is a stipulation to the effect that such regulation shall be, as far as possible, confined to enumerated cases (public safety, *etc.*).

[2] These provisions also contain assurances regarding the general administration of any licensing arrangements which may be instituted.

are subject ".[1] Apparently, this is the only British commercial treaty negotiated since the adoption in 1932 of a trade bargaining policy which contains precisely such terms.[2]

The clearest and most elaborate application of the most-favoured-nation principle of equality of treatment to quantitative controls is to be found in the commercial agreements concluded with the Kingdom of the Netherlands, France and Brazil.[3] In the Brazilian agreement it is first provided that British goods shall receive treatment at least as favourable, " in all respects ", as that accorded to the products of any other foreign country and that such products shall not be subject to " other prohibitions or restrictions... or to other or more onerous licensing requirements " than those to which like products of any other foreign origin are subject. This is followed by provisions which define non-discriminatory treatment in the sphere of quantitative controls in the following terms :

> " Whenever quantitative limitation is imposed on imports into Brazil on articles in which the United Kingdom is interested, *equitable treatment* will be accorded such articles... taking into account the proportion of the respective supplies from the United Kingdom in relation to the total imports of such articles *in recent years*. In future cases the Brazilian Government will consult with His Majesty's Government in the United Kingdom before any allocation is made in respect of such articles imported from the United Kingdom, and *will take all relevant circumstances* into account. "[4]

It will be noted that these provisions establish a general basis of treatment and then set up the basic period concept as the determining factor in the allocation of national contingents.

The commercial agreements with the Netherlands and France, while containing no general provisions regarding the most-favoured-

[1] Article 2, *Cmd.* 5288 A similar provision appears in Article 1 of the Anglo-Uruguayan agreement of June 26, 1935. *Cmd* 4940 It is set, however, in a much different context providing for preferential treatment for British products

[2] Some of the other British agreements contain provisions which at first sight may appear very similar to this but which when read with their context appear to possess an entirely different significance

[3] Netherlands, July 20 and July 30, 1934, *Cmd.* 4703; France, June 27, 1934, *Cmd* 4632, Brazil, August 10, 1936, *Cmd.* 5267.

[4] Italics mine The treaty of commerce and navigation with Siam, signed November 23, 1937, provides for " an equitable apportionment of the quantity of restricted goods which may be authorized for importation from or exportation to foreign countries ". *Cmd.* 5608

nation principle, do include quantitative provisions more elaborate than those found in the Brazilian agreement. This is probably due to the fact that the imports into these countries have been closely regulated by means of quantitative controls. Both agreements provide, in almost identical terms, that United Kingdom products are to be granted "the full share of all quotas in regard to any class of goods, whether existing or to be established hereafter, which is *mathematically attributable* to the United Kingdom in accordance with the proportion of the total foreign importations into France of the goods in question in the basic period which was represented by United Kingdom goods. The said proportionate share granted to the United Kingdom shall not be reduced, whether the global quota be increased or reduced".[1] The French agreement permits the French Government to negotiate with the British Government or with other foreign countries with respect to the balance of the global quota remaining after the United Kingdom share has been determined in line with the above formula. France is thus enabled to grant Britain a quota greater than its basic period share or, conversely, to allot to other countries whatever quotas are deemed desirable so long as the minimum share defined above is guaranteed the United Kingdom. With respect to supplementary coal quotas France promises in Article 4 that if the global quota is reduced the supplementary allocation shall not be reduced in greater proportion. Moreover, such supplementary allocation shall remain open to free competition. The implication appears to be that the supplementary quota is to be an unallocated global quota. This raises the question, it may be pointed out, of supplementary quotas and the most-favoured-nation principle which was considered earlier in connection with American commercial policy.

The Anglo-French agreement also includes certain other quota provisions of relevance to this discussion. United Kingdom products included in the category "to other countries" are to be given upon request a separate national contingent. Again, in regard to the administration of quotas British products shall, in the event of any request to this effect being made, receive, subject to the same conditions and reservations, "the most favourable treatment accorded to any other country in respect of like products". This latter proviso appears

[1] France, *op cit.* Article 3, Italics mine Article 4 provides that for United Kingdom coal falling "under the 'normal' quota" the existing percentage of imports is guaranteed.

somewhat strange unless it is interpreted in the sense of preferential treatment being accorded the products of other countries. It seems certain the United Kingdom would expect most-favoured-nation treatment in this respect without having to request it specifically in individual cases.

Among the remaining French quota provisions may be mentioned the undertaking that *contingents interlocutoires* based on imports in the preceding year will be established in the case of new quotas for industrial products of special interest to Britain, pending the establishment of a definitive basis of calculation. There is also a provision to the effect that the seasonal variation of certain products will be considered in fixing periodic allocations of quotas. Finally, imports of British industrial products subject to quota before January 1, 1934 and which comprised less than 10 per cent of total imports in 1931 are to receive a quota amounting to not less than the actual volume of imports in 1931.[1]

It should be observed with regard to the French quantitative provisions that while the " mathematically attributable " clause appears to lend an air of exact application of the most-favoured-nation principle, in actual practice, aside from the inherent difficulties of any such formula,[2] these provisions, read as a whole, present a much less clear impression. The stipulations concerning supplementary quotas, the administration of quotas, *contingents interlocutoires* and the allotment of certain industrial quotas on the minimum basis of imports in 1931 all tend to complicate and render more arbitrary the attempt to grant equality of treatment to British exports.

The Netherlands Agreement also contains, in addition to the basic allocation clause, several important quantitative sections. It is provided that the Netherlands will facilitate the complete exhaustion within the quota period of the allotments granted the United Kingdom. Provision is made for the granting of import licences to traders who did not import in the basic period. " However, to *assure as far as possible the maintenance of existing channels of trade*, preference will in principle be given to those traders who imported during the basic period, and undertake to continue such importation ".[3] Clauses regarding the

[1] The annex to the French agreement provides for a barter arrangement within the framework of the general provisions, with respect to British coal against French pitwood on a monthly basis.

[2] See *supra*, Chap. II.

[3] *Op. cit*, paragraph 8. Italics mine. This might lead to discrimination.

administration of quotas and the taking into account of seasonal factors in the allocation of quotas and granting of import licences similar to the French provisions above are also included.[1]

More consistent than the French provisions, the Netherlands Agreement makes an attempt at non-discrimination which approaches closely in character to the American quantitative provisions. The rigidity implicit in the stipulation in regard to new traders may be technically inevitable under a basic period formula, since new traders might consider it advantageous for economic or other reasons to import from sources of supply other than the United Kingdom and so cause British exports to supply a relatively smaller share of the Netherlands market. It does, however, place in the spotlight a difficulty inherent in any situation in which past trade must be employed as a criterion of treatment.

An examination of the British trade treaties, it may be concluded, does not reveal any measures which dispense with the necessity for, or improve upon the wording of the general provisions regarding quantitative controls which are inserted in American agreements.[2] On the contrary, it is clear that all the problems and difficulties referred to in connection with the American agreements emerge in at least equal degree from the British quantitative safeguards.

QUOTA CONCESSIONS.

It must be borne in mind that the discussion above concerned itself with attempts of the British Government to secure equality of treatment in the operation of quantitative controls. Such attempts, however, form only a small part of the various provisions appearing in British commercial treaties on this subject. Moreover, such treatment, to the extent it is secured, can be considered only as a *quid pro quo* for the equivalent grant of equality of treatment on the part of the United Kingdom. That is to say, there are to be considered, in addition to the general provisions analysed above, specific quantitative concessions accorded by foreign countries either unilaterally because of the bilateral trade

[1] Both the Netherlands and Brazilian Agreements discussed above are reciprocal in character and therefore entail similar obligations on the part of the United Kingdom. The French provisions apply only to imports from Britain into France

[2] The Anglo-American trade agreement, of December 17, 1938, contains quantitative provisions along the lines of the other American agreements See *Cmd. 5882*. From the standpoint of the present discussion the official recognition of such provisions which it affords is its only point of interest.

position or in exchange for reciprocal specific concessions by the British Government.

With this in mind, the following analysis may be divided broadly into four categories. The first will consider the use of minimum value and quantum quotas and the combination in specific terms of quantum with percentual quotas. In the second section attention will be given to certain licensing provisions. The third part concerns various stipulations regarding the operation of quantitative restrictions. Finally, certain miscellaneous provisions of relevance to the discussion but not falling definitely under any one of the above divisions will be dealt with briefly.

The significance and implications of the analysis cannot be made clear without some reference to the distinctly bilateral flavour of the great majority of Britain's commercial treaties with foreign countries in recent years. In trade agreements with no less than six countries Britain's passive bilateral balance of trade is referred to in one form or another with the clear indication that it constitutes the foundation upon which the provisions of the agreement have been erected [1] The trade agreement concluded with Lithuania on July 6, 1934, for example, contains the following clause [2] :

> " The Contracting Governments having concluded the Commercial Agreement in the desire to maintain and facilitate still further trade and commerce between the United Kingdom and Lithuania, the two Governments *undertake to keep in view the balance of trade* between the United Kingdom and Lithuania, and the Lithuanian Government, having regard to the *proportion of Lithuanian exports finding a market in the United Kingdom* recognize that, in furtherance of the objects of the Agreement, the sales in Lithuania of goods the produce or manufacture of the United Kingdom should be increased. "

In the exchange of notes with Latvia, dated July 6, 1933, the balance of trade provision is even more pointed in nature, providing as it does that " the Latvian Government recognize that it is in the interest of both countries that the present disparity in that balance (of trade) should be readjusted as far as possible by the increase of the sales in

[1] Denmark, April 24, 1933, *Cmd. 4424*; Estonia, July 15, 1933, July 11, 1934, *Cmd 4392* and *4736*, Finland, September 29, 1933, *Cmd. 4472*, Latvia, July 6, 1933, July 17, 1934, *Cmd. 4384* and *4753*, Lithuania, July 6, 1934, *Cmd. 4680*; Poland, February 27, 1935, *Cmd. 4984*

[2] *Op. cit.* Protocol, Part I (1). Italics mine

Latvia of goods the produce or manufacture of the United Kingdom ".[1] The Anglo-Danish Agreements oblige the Danish Government in administering the provisions of the agreement to keep the balance of trade between the two countries in view.

Commercial and financial agreements concluded with other countries possess an even more marked bilateral character.[2] These agreements — trade, clearing and payments have usually been negotiated with countries imposing rigid controls over the transfer of international payments or countries which at the time of the negotiation of the agreement were in serious exchange difficulties. An important characteristic of most of these agreements is the close linking up of trade and payments. While these will be discussed in some detail in succeeding sections, reference will be made presently to the pure trade arrangements made with such countries which are of significance to the present discussion. Anglo-Russian commercial relations, forming in a sense a special case, will be commented upon in a separate section.[3]

The implications of agreements which are consciously divorced from the multilateral principle of trade and payments become of great significance in any consideration of the type of trade relations which Britain has established with countries which employ quantitative controls as a prime instrument of national external economic policy. The reasons for this will become readily apparent in the succeeding discussion.

The employment of minimum quotas in British commercial agreements presents a number of features of considerable relevance to this discussion. One of the more important objectives of the British Government in its commercial treaties with the various Scandinavian and Baltic countries has been the expansion of export outlets for British coal.[4] In agreements with every coal importing country, except Germany which will be considered presently, in this area minimum percentual allocations, in some cases combined with specific quantum undertakings, have been secured for United Kingdom coal exports.

[1] *Op cit.* paragraph (4)

[2] These countries are Argentina, Germany, Hungary, Italy, Roumania, Russia, Spain, Turkey, Uruguay, and Yugoslavia. With a large number of these countries more than one agreement has been signed.

[3] See *infra*, p. 70 et seg

[4] Denmark, Estonia, Finland, Latvia, Lithuania, Norway and Sweden are in this list. Poland being a very important source of coal in export markets would not, of course, offer any possibilities in this direction. *Op cit*, and Norway, May 15, 1933, *Cmd. 4500*, Sweden, May 15, 1933, *Cmd 4324*.

Great Britain is guaranteed percentage shares in the total coal importations of the countries ranging from 47 per cent in the case of Sweden to 85 per cent in the Estonian agreement.[1] In two cases, Estonia and Lithuania, the percentual undertakings are combined with minimum quantum concessions. In the latter, the Estonian Government guarantees that 85 per cent of the total coal imports in that country and not less than 35,000 metric tons, including an amount not exceeding 5,000 metric tons of a variety described by Estonian consumers as "Smithy Peas", will be imported from the United Kingdom. The Lithuanian Agreement stipulates 80 per cent and not less than 178,000 metric tons shall be of British origin.

The agreements, with the exception of that with Sweden, also contain provisions regarding the maintenance of the United Kingdom share of coke imports into these countries and provide for consultation between the contracting parties with that end in view. The Lithuanian commercial treaty assures Britain 50 per cent of the total coke imports into that country. In this connection, reference may also be made to the commercial treaties with Argentina and Uruguay which provide in the Protocol that if it should appear that the United Kingdom is not maintaining its share in the total imports into these countries of coal, coke and manufactured fuel produced or manufactured in the United Kingdom consultations shall be held with a view to remedying the situation.[2]

The exchange of notes between the United Kingdom and Germany, of April 13 and May 3, 1933, also contains minimum quota provisions regarding coal and coke in addition a sliding scale formula. Germany is to admit not less than 180,000 metric tons of British coal and coke per month. But if the total consumption in Germany of coal, coal briquettes and coke exceeds by one per cent or more the equivalent of 7,500,000 metric tons in any single month, additional imports will be drawn from the United Kingdom by the same percentage over 180,000 as total German consumption exceeds 7,500,000 metric tons.[3]

[1] Denmark, 80 per cent, Estonia, 85 per cent, Finland, 75 per cent; Latvia, 70 per cent; Lithuania, 80 per cent; Norway, 70 per cent, Sweden, 47 per cent. In the trade agreement, of May 19, 1933, with Iceland 77 per cent is stipulated. *Cmd. 4331.* These provisions appear in every case in the Protocol to the treaties.

[2] Argentina December 1, 1936, *Cmd. 5324*; Uruguay, June 26, 1935, *Cmd 4940.* Provisions regarding the maintenance of the United Kingdom share in coke imports are also contained in 1933 Argentine Agreements, *Cmd 4492, 4494*

[3] *Cmd 4319.* One ton of coal, for the purposes of the agreement, is considered the equivalent of one ton of coke.

Mention should also be made of the minimum quota concessions secured by Britain with regard to the exports of herrings and wheaten flour. In the commercial agreement of July 6, 1933, Latvia agreed to import herrings from the United Kingdom to the extent of 10,000 metric tons for the year ending June 30, 1934, this being approximately 75 per cent of total Latvian imports for consumption in 1931.[1] When a more detailed agreement was concluded on July 17, 1934, the minimum quota figure was placed at 10,000 metric tons for the period beginning July 1, 1934, and ending June 30, 1935, and at 12,500 metric tons for the subsequent annual periods. Consultations were held to determine the quota for the period beginning the first of July 1936.[1] The trade agreement with Finland, signed September 29, 1933, provides that the share of the global tariff quota for imports of salt herrings allocated to the United Kingdom is to be determined on the basis of the British share of the total imports of this product during the ten years 1923-32.[1]

The agreement with Finland, of April 14, 1937, concerning imports of wheaten flour, provides for a minimum British tariff quota of 19,850 metric tons. The basis for the allocation is defined as the average annual imports from the United Kingdom during the years 1935 and 1936.[2]

Under the terms of the Anglo-Argentine trade and payments agreement of December 1, 1936, the Argentine Government undertook that in the event of quantitative regulation of imports of piece goods of cotton, rayon, or both, the national contingent granted to the United Kingdom should not be less than the average quantities imported from the United Kingdom in the years 1933, 1934 and 1935.[3]

The comments made above refer to quota provisions pertaining to single commodities in individual agreements. More extensive quantitative provisions have been embodied in the commercial agreements concluded by the United Kingdom with Italy and Turkey. In the provisional agreement with Italy of March 18, 1935, the Italian Government undertook, pending the conclusion of a definitive agreement between the two countries, to allow the importation of 80 per cent of all United Kingdom products imported in the corresponding period of the preceding year.[4] Italy reserved the right to reconsider this

[1] *Op cit.*
[2] *Cmd 5515.*
[3] Letter No 2, *Cmd 5324.*
[4] *Cmd 4883.* "Normal re-exports" from Britain to Italy are included within the scope of the agreement.

undertaking if British imports of Italian products fell substantially below the amount imported during the corresponding period of 1934. In addition to this provision, the terms of the agreement obliged Italy to apply all devisen accruing from United Kingdom imports from Italy exclusively to the payment of British exports to Italy.[1]

This arrangement regarding British exports was substantially continued in the exchange of notes regarding trade and payments of March, 18, 1935.[2] It was further agreed that if during the period from April 1 to June 30 the system of customs receipts in effect failed to permit the full 80 per cent, in total value, of the volume of imports from Britain into Italy during the corresponding period of 1934, the Italian Government was to permit the deficiency to be imported during the following three-months period. Moreover, if by the end of 1935 the system of customs receipts had not made possible the exhaustion of the percentage quotas in regard of one or more products subject to this régime, after calculating the total value of such deficiencies Italy undertook to permit to the extent of this sum the importation of coal or such other commodities as the two contracting Governments might agree upon.[3] Finally, in this agreement the Government of Italy undertook that the contingent for Newfoundland codfish should be equivalent to 70 per cent of such imports from Newfoundland in 1934.

In November 1936, following the abolition of economic sanctions against Italy, a new commercial agreement with the United Kingdom was signed.[4] The annex to this arrangement contained three sections regarding quantitative concessions for British exports. Part A designated a specified list of minimum quarterly value quotas, in terms of lire on a c.i.f. basis, for products subject to the system of import licences. Part B stipulated for a list of products, whose importation into Italy fell within the "Bolletta" system, minimum value quotas amounting to 50 per cent of the c.i.f. lire value of imports of such products into Italy from the United Kingdom during the corresponding period of 1934. Commodities not listed either in A or B were, under Part C, to be admitted into Italy up to a value (c.i.f.) in lire equivalent to 31 per

[1] Financial provisions such as these will be considered in detail in subsequent sections. It is included here to shed some light upon the quantitative provisions

[2] *Cmd 4960*

[3] This provision is subject to the condition that sufficient funds for this purpose are available in the Sterling Account set up under the clearing procedure provided for See *op. cit* Article 3

[4] November 6, 1936, *Cmd. 5345*

cent of the importation of such products in the corresponding period of 1934. Under Article 1 of the agreement it was further provided that the quotas fixed under A and B were subject to revision by agreement for the quota period beginning January 1, 1937, or any subsequent period. If the result of such revision is to increase or decrease the aggregate lire value of commodities included in these categories, the percentage referred to in Part C is to be modified proportionately. Finally, for Newfoundland codfish and stockfish there was a minimum value quota of 3,625,000 lire (c.i.f.) for the period ending December 31, 1936, and for each quarterly period thereafter.[1]

These provisions were replaced by similar provisions in the new Anglo-Italian commercial agreement of March 18, 1938.[2] The quota stipulations are again placed in an Annex to the agreement, listing value quotas (c.i.f.) for imports into Italy of British goods. Part A provides for minimum value quotas for a specified list of products. The first part of Part B states the percentages of imports of the products mentioned in the corresponding period of 1934 which are to be admitted under the terms of the new agreement. Products not enumerated under the above groups are to be admitted, by virtue of the provisions of the second subdivision to Part B, up to 40 per cent of the value of such goods in the year 1934 or in the corresponding period of 1934, as the case may be. In Part C, a new provision appears which allows additional imports of the items provided for above, or imports of classes of goods which were not imported into Italy from the United Kingdom in the year 1934, or the corresponding period, up to an aggregate value (c.i.f.) of 15,800,000 lire per year for any class of merchandise. The Italian Government also grants a minimum value quota for the importation of Newfoundland codfish and stockfish to the extent of 14,500,000 lire (c.i.f.) per year.

The products listed in Part A and Part B correspond to A, B and C of the immediately preceding commercial agreement with Italy. The commodities provided for are almost identical in both lists with the important difference that in the latest agreement some of the minimum value quotas in A expanded while the percentages provided in B of the earlier agreement are increased from 50 per cent to 70, 70 and 60 per cent respectively for the three classes of commodities specified, and the

[1] The integration of the Newfoundland fish imports into Anglo-Italian trade and payments agreements places them, for purposes of this discussion, upon the same plane as United Kingdom exports.

[2] *Cmd. 5694.*

specified percentage of the basket group C is increased under the terms of the second part of Part B of the current agreement from 31 per cent to 40 per cent.[1] The expansion of British exports under these terms is of particular importance to this discussion for it throws some light on the question of expanding trade under conditions of close regulation. Further comments on this point and these provisions will be made in due course.

The latter two Italian agreements provided a considerably smaller volume of United Kingdom exports for many products than obtained under the first two agreements. As will be shown in a subsequent section the reason for such restriction was primarily to facilitate the liquidation of trade arrears and the transfer of financial payments.[2] For the same purpose, a new agreement signed in March 1939 provided for severe reductions in the British products classified under Parts A, B and C above.[3] Seven of the twelve minimum value quotas were reduced, and the specific percentual provisions in Part B (1) changed from 70, 70 and 60 respectively, to 50 per cent, in all three cases. Part B (2) was decreased from 40 to 31 per cent, and Part C from 15,800,000 lire to 13,000,000 lire. In addition, imports from the United Kingdom were not to be authorized during the period January 1 to February 28, 1939. Coal was not involved in this new agreement, the former arrangements remaining in effect.[4] Generally, there appears to have been a reversion to the quota provisions of the November 1936 agreement.

A trade and payments agreement containing provisions of relevance here was signed on June 4, 1935, between the Governments of the United Kingdom and Turkey.[5] The preamble refers to "the exceptional economic circumstances which have made it necessary for Turkey to apply to all countries the principle of the balance of payments" and so strikes the keynote of the treaty. United Kingdom products contained in the First Schedule are to be imported into Turkey without quantitative restriction. The Second Schedule stipulates minimum yearly quantum quotas to be accorded to specified British products. All other commodities produced or manufactured in Britain are to enjoy

[1] The three commodity groups referred to in Part B of the earlier agreement are tissues and other manufactures of linen, hemp and jute, tissues and other manufactures of cotton; and manufactures of iron and steel.

[2] See *infra*

[3] *Board of Trade Journal*, March 16, 1939, p 418-419.

[4] See *infra* for some further aspects, also, International Institute of Intellectual Co-operation *Mémoire sur le Contrôle des Changes en Italie*, (mimeographed) Paris, 1939, pp. 33-38, 50-55.

[5] *Cmd. 4925.* This provides, *inter alia*, for the establishment of a unilateral clearing.

the benefit of the general quota régime in operation. In practice this meant, since the United Kingdom was a clearing country, freedom from quantitative restriction of an additional number of products. Moreover, imports of British goods landed in Turkey, but not cleared, prior to May 15, 1935, and products imported under the general régime in force but not cleared owing to insufficiency or absence of quotas were to be cleared without any restriction as to quantity.[1]

In September 1936 a trade and clearing agreement was concluded with Turkey which constructed a bilateral clearing system in substitution of the previous unilateral arrangement.[2] The trade provisions described above were continued in substantially the same form. It assured, in addition, that British products enumerated in the First and Second Schedules are to enjoy the general régime in force to the extent that it provides more favourable treatment than is contained in the Schedules. The importation of all United Kingdom goods landed but not cleared because of insufficiency or absence of quotas is to be permitted within a six months period beginning the day of entry into force of the new agreement.

A supplementary Anglo-Turkish trade and clearing agreement was concluded on May 27, 1938, and restricted, owing to serious transfer difficulties, the importation of British products through the clearing mechanism to the quarterly c.i.f. value quotas specified in an appended schedule.[3]

Reference should also be made in this connection to the deletion of the equality of treatment provisions, in respect to prohibitions and restrictions, from the Anglo-Turkish treaty of commerce and navigation of March 1, 1930, under the terms of the agreements discussed above.[4]

The real significance of the Anglo-Turkish agreements, as is also true in part of the Italian agreement, will come to light when the financial aspects, which are very closely integrated with the trade provisions, are presented in the succeeding section.[5]

Article 6 of the Anglo-Polish agreement of February 27, 1935, provides that "adequate quotas" are to be allocated to the United

[1] Certain of these products required a necessary prior permit from the Turkish Government department concerned.

[2] September 2, 1936, *Cmd 5274*

[3] *Cmd. 5756.*

[4] *Op cit* Article 16. On the other hand, sub-paragraph (*e*) and the paragraph following of Article 17 contain some traces of the most-favoured-nation principle Apparently, the interpretation of these clauses can be suitably modified to fit the new framework of commercial relations

[5] *Infra*, Chaps. IX-X.

Kingdom products. While no further definition is given of this provision, read in its context it must mean considerably more than any concept of equality of treatment would permit.[1] Incidentally, Article 2 of this agreement provides that so long as the Anglo-Polish balance of trade is "favourable" to Poland no compensation requirements are to be imposed in respect of British goods. This is an important concession for Polish compensation requirements have involved very heavy compensation fees and offsetting Polish exports which are administered on a bilateral basis without regard to Poland's legal most-favoured-nation obligations.

Certain observations and conclusions emerge from this analysis of the employment of minimum value, quantum and percentual quotas in British commercial treaties. Whether a minimum quota is stated directly or indirectly, in terms of percentage of imports during a specified previous period, the character of such provisions is basically the same. If equality of treatment and quota concessions which are not exclusive in nature are sought, all the various questions raised in the corresponding section on American commercial agreements arise here also. This is equally true with regard to the use of a minimum quota in combination with a specified minimum percentual share. The principal difference here lies in the greater restriction placed upon the freedom of the importing country for in this case not only are they compelled to import a given aggregate but this must also form a guaranteed share of total imports.[2] The possibility of increasing imports of the products concerned from third countries is therefore considerably more restricted.

Where the quota undertaking takes the form of a simple percentual share of total imports, whatever they may be, the position depends upon the relation of such percentage to trade in past years and other relevant circumstances. For example, percentual quota concessions clearly higher than the proportion supplied in past years become exclusive in form and lead to trade diversion. Sliding scale minimum quotas related to total consumption possess *a priori* no necessary tendency

[1] *e g.* see Department of Overseas Trade, *Economic Conditions in Poland*, March, 1936, p 9 The fact that the quotas allocated to the United Kingdom have not been published is *prima facie* evidence of their character and the existence of a confidential agreement between the two countries See *ibid* pp 11-12 for reference to the confidential nature of these quotas

[2] Where minimum value and quantum concessions are specified without any percentual assurance, none the less, such quotas will probably be derived from some percentage of trade in a previous period But the fact that the percentage itself is not included in the text of the agreement is quite important to the freedom of action enjoyed by the regulating country.

towards exclusive concessions but depend upon the circumstances surrounding the agreement and its context.[1]

In the case of the quotas specified in the Italian agreements, the undertakings are clearly arbitrary in character since not only are they not related to total imports from all sources into Italy but they are also closely related to the volume of imports into the United Kingdom from Italy.

The position of the United Kingdom in the matters discussed above is clearly indicated in the preceding discussion. It is significant that the applicability of the most-favoured-nation principle to quantitative restrictions upon imports into Britain has been officially recognized in every commercial treaty in which such controls have played a rôle. Further, in several treaties this recognition has been extended to British exports. But for the great majority of Britain's commercial treaties, however, the conclusion regarding the treatment secured for British exports must be different. Here the British Government has deliberately met the question of minimum quotas, from the outset, in an arbitrary fashion. The assumption may be safely made that there has been no intention on the part of the British Government to apply the most-favoured-nation principle of equality of competitive opportunity to the concessions it has sought from foreign countries.[2] Stated in other terms, this means that Britain has promoted the practice of discrimination in other countries.

It is quite essential, in this connection, to keep in mind the general context and nature of the agreements into which such minimum quota provisions have been incorporated. In every case presented above the intention of the treaties has been clearly to promote bilateral trade as distinct from multilateral trade, whether this is explicitly stated or is merely implicit in the character of the undertakings. The evidence points clearly to an attempt on the part of the United Kingdom to force the diversion of imports into these countries to British sources.[3] The references to the bilateral balance of trade in the Scandinavian

[1] Such sliding scale minimum value or quantum quotas might also be related to total imports into the country concerned

[2] It may be pointed out that in a note to the French Government regarding the most-favoured-nation clause and quotas the British Government argued the applicability of the clause to quotas. See *Parliamentary Debates*, Commons, Official Report, Fifth Series, Volume 285, February 15, 1934, Col 2171-2, see also *ibid.*, Volume 286, February 22, 1934, col 486

[3] This will be more readily apparent when the purchase undertakings in a considerable number of agreements are considered, *infra* p 74

and Baltic agreements, and the coal clauses in these same agreements, considered in the light of trade trends in previous years and the relevant competitive conditions existing in the international coal trade, offer concrete evidence in support of these observations.[1] Again, there is the sharp contrast afforded by the minimum quota provisions above when compared with the character of the provisions regarding British quantitative control of agricultural imports, and the nature, for example, of the Dutch assurance of equality of treatment in respect of British exports. Finally, the trade agreements with other countries referred to have been oriented along bilateral lines by means of the payments provisions.

Import Licensing Provisions.

The second type of quantitative provision in the British agreements concerns undertakings with respect to import licences. In the Anglo-Rumanian agreement regarding commercial payments of September 2, 1938, the Rumanian Government undertakes to issue import licences to the extent necessary "to utilize in full for the purchase of United Kingdom goods the sterling made available" under the agreement for the import of such goods.[2] The administration of the import licensing arrangements instituted is to be such as to maintain the relative proportions between different classes of goods as obtained in the years 1933-35.

Under the terms of the trade and payments agreement with Yugoslavia, signed November 27, 1936, sufficient licences are to be issued for "the importation into Yugoslavia of all goods grown, produced, manufactured in or re-exported from the United Kingdom in respect of which import restrictions are or may subsequently be imposed".[3] It is further provided that the aggregate value of such licences is to

[1] See the enlightening statement regarding coal by the Parliamentary Secretary of the Board of Trade *Parliamentary Debates*, Commons, Fifth Series, Volume 280, July 4, 1933, col. 201, and *ibid.*, Volume 27, May 10, 1933, Col 1543 The percentage of total coal imports into Lithuania from the United Kingdom formed 8 per cent in 1930, 2 per cent in 1931, and 78 2 per cent in 1934. *The Economist*, London, November 16, 1935, p 371.
The Norwegian Government has had to set up an import quota control system for coal in order to assure Britain 70 per cent of total imports International Studies Conference, Twelfth Session, Morten Tuveng, *Memorandum on External Economic Policy of Norway in Recent Years*, Paris, 1939, p 56, see also *infra*, Chap. XI

[2] Article 12 (4), *Cmd 5840.*

[3] *Cmd 5323.*

depend upon the total value of United Kingdom imports from Yugoslavia.[1] The purpose was admittedly to expand British exports to Yugoslavia on a bilateral basis.[2]

The Anglo-Uruguayan trade and payments agreement of June 26, 1935, obliges the Uruguayan Government to grant import licences up to an amount for which foreign exchange is made available under the terms of the Agreement, and to "use their best endeavours to secure that *additional* import licences and exchange permits in respect of imports from the United Kingdom will be granted."[3] The Uruguayan Government further ensures that, by means of a certificate of origin or otherwise, the exchange available under Article 7 will be applied only to goods the produce or manufacture of Great Britain, and to re-exports, not in excess, however, of the proportion which the latter bore to the former in the calendar year 1934.[4] Finally, if it is necessary to restrict the issuance of import licences because of a shortage of exchange, the Government of Uruguay will endeavour to avoid any such restriction as regards coal, coke, or solid fuel manufactured in the United Kingdom. With regard to other products, the restriction shall be so applied as to maintain the proportion between the different classes of goods which obtained in 1934.[5]

In renewing the Anglo-Danish commercial agreement of 1933, the Danish Government further undertook to make "an *adequate allocation* of licences for the year ending the 30th April, 1937, and thereafter, permitting payment for and importation into Denmark of goods the produce or manufacture of the United Kingdom."[6] The significance of the word "adequate" becomes quite clear when read in conjunction with the reference to the balance of trade and Protocol

[1] The Secretary of the Department of Overseas Trade stated in the House of Commons that these provisions had resulted in the issue of licences for imports from the United Kingdom for the month of December at double the rate which had recently obtained. See *Parliamentary Debates*, Official Report, Fifth Series, November 30, 1936, col 835-6.

[2] *Ibid*

[3] *Cmd 4940* Article 7 of this agreement allocates all exchange arising out of British imports from Uruguay to United Kingdom requirements. Italics mine. See also the Anglo-German treaty of November 1, 1934 *Cmd 4963*, Article 1 and *infra* p. 87

[4] To safeguard the preferences given Britain. *El Pueblo*, Montevideo, December 11, 1935

[5] It is interesting to note the increasing use in recent years of certificates of origin and other such documents which under a discriminatory trade bilateralism or bilateral payments arrangements become quite important to the satisfactory operation of the agreements reached

[6] June 19, 1936, Article 2, *Cmd. 5400*. (Italics mine).

undertakings in the original agreement.[1] Closely akin to this provision is that appearing in the Anglo-Lithuanian trade agreement to the effect that the Lithuanian Government will issue import licences at least to the extent sufficient for the coal and purchase undertakings provided in the Protocol to the agreement.[2]

The treaties of commerce and navigation with Rumania, Turkey and Yugoslavia of 1930 and 1931 provide with respect to licensing arrangements that the conditions to be fulfilled and formalities to be observed are to be sufficiently publicized; the method of issuing licences is to be as simple and stable as possible; the consideration of applications for import licences and the issuance of import licences are to be carried out with a minimum of delay; and finally the import licence system is to be so administered as to prevent "traffic in licences". Such provisions as these do not appear in agreements negotiated since the adoption of a bargaining policy. They resemble certain provisions in the American agreements which aim at non-discriminatory treatment.[3]

Other Provisions.

The third category in this part of the analysis concerns chiefly certain provisions included in the United Kingdom trade agreements with the three Baltic countries — Estonia, Latvia and Lithuania. Article 3 of the agreement with Estonia provides that British exports which are not the subject of "special arrangements" in the Protocol are not to be restricted in any case below imports into Estonia in 1933.[4] This applies to articles which have not been specifically included in the Schedules of tariff concessions appended to the agreement as well as those which have. Further, with respect to products included in the list of Estonian tariff concessions, import restrictions are not to be employed in such a manner as to prevent the full benefits of these concessions from accruing to goods the produce or manufacture of the United Kingdom.

[1] See *infra* p 76 "It is an undoubted fact that the operation of the licensing system for example in Denmark, has been a factor which has contributed to the increased volume of British trade and has operated to such an extent as to make the most-favoured-nation clause relatively unimportant". *Quality*, (organ of the Sheffield Chamber of Commerce). January 1937, p. 136.

[2] July 6, 1934, Article 4. *Cmd. 4680*

[3] *Op cit.*

[4] July 11, 1934 *Cmd 4736*

The latter provision appears also in the commercial treaties with Latvia and Lithuania.[1] These agreements also provide that in the operation of any import restrictions the Governments of Latvia and Lithuania will have regard to the undertakings in the Protocols, which refer to Britain's passive balance of trade with these countries and provide that "in furtherance of the objects of the Agreement, the sales in Lithuania of goods the produce or manufacture of the United Kingdom should be increased." These stipulations shed some light on the "full benefits" clause in respect of import restrictions on the tariff concession items mentioned above.

It may be remarked that the second and third categories presented above reinforce the observations offered earlier regarding minimum quota concessions. The clauses relating to the maintenance of the relative shares formed by different classes of goods in a previous period is interesting evidence of the rigid character of recent trade regulation. In linking up the operation of import restrictions with the bilateral balance of trade or payments, the commercial treaty provisions regarding British exports assume either a short period point of view or an entirely new trade philosophy. The importance of this consideration will become more apparent when the various possibilities of commercial relations are considered in the final section of this study.

A somewhat miscellaneous group of provisions remain to be considered at this point. In a number of agreements both contracting Governments give assurances to the effect that no quantitative restrictions will be imposed upon Schedule items the subject of tariff concessions.[2] This is analogous to the similar binding of concessions contained in American agreement.

Some of the British agreements also provided that the products of each contracting party "shall enjoy in all respects treatment not less favourable than that enjoyed by the goods produced or manufactured in any other foreign country."[3] With the exception, perhaps, of the Swedish Agreement, this undertaking would be equivalent to an equal treatment provision only with respect to imports into Britain. As for British exports, it becomes a type of minimum treatment applicable, perhaps, to cases where no special arrangements or treatment have

[1] Latvia, July 17, 1934, *Cmd. 4753*, Lithuania, July 6, 1934, *Cmd 4680*

[2] Finland, Norway and Sweden Under the Estonian agreement (July 11, 1934) no new import restrictions may be placed upon Schedule articles

[3] Denmark, Iceland, Lithuania, Sweden and Uruguay The wording of the Uruguayan provision differs somewhat from the others

been provided for. Certainly, the general character of the relevant agreements is not multilateral in form. They might be better termed most-preferred-nation provisions, but event his fails to take into account treatment in certain instances which, by its nature, grants Britain concessions which cannot possibly be duplicated in the case of any other country.

An interesting undertaking, concerning British exports indirectly, appears in the Anglo-Danish Agreement of April 24, 1933. Article 1 stipulates that if imports into Denmark of certain textiles, specified Part II of Schedule I, from countries other than the United Kingdom increase in quantity during any six months period by more than 30 per cent, as compared with the immediately preceding six months, and also exceed average imports from the same countries during the corresponding periods of 1932-1934, "the two Governments shall discuss together any proposals which the Danish Government may wish to make to the Government of the United Kingdom for the purpose of preserving or restoring an economic level of prices." [1] It is probable that these provisions owe their origin to the possibility of increased German and Japanese competition. They do offer an example of an unusual degree of control by one country over the external trade relations of another country with third countries.

[1] Article 1, *op. cit.*

CHAPTER VII

MONOPOLY PROVISIONS AND COMMERCIAL RELATIONS WITH RUSSIA

Monopoly Provisions.

References to the operation of import monopolies have not been incorporated in any important degree in the British commercial treaties. In the pure trade agreements only two such cases, within the writer's knowledge, are to be found. In the financial agreements, the operations of monopolies have been assimilated into the general terms of the agreements and have not been distinguished from trade conducted upon a different basis.

In the treaty of commerce and navigation with Siam, of November 23, 1937, an exchange of notes contains provisions regarding the operation of import monopolies very similar to the standard article employed by the United States for this purpose.[1] Each Government undertakes that :

> " In the event of the establishment of a monopoly for the importation, production or sale of a particular commodity for the profit either of the Government or of a private individual or organization, the Siamese Government agree that in respect of the foreign purchase of such monopoly the commerce of the United Kingdom shall receive *fair and equitable treatment*. To this end it is agreed that in making its foreign purchases of any product such monopoly will be influenced solely by those considerations, such as price, quality, marketability and terms of sale, *which would ordinarily be taken into account by a private commercial enterprise* interested solely in purchasing such product on the most favourable terms. "[2]

A rather interesting provision, in this connection, appears in the Anglo-Norwegian trade agreement of May 15, 1933.[3] As one of the concessions accorded by Norway, the A/S Vinmonopol, the Government liquor monopoly, undertakes to reduce the price of whisky produced in the United Kingdom. A schedule is published which indicates

[1] *Op cit*
[2] Italics mine
[3] *Op. cit.*

the price reductions for the various grades of whisky. During the currency of the agreement such prices may not be altered except as may be necessary owing to fluctuations in the kroner market prices of such whisky when supplies are replenished by the monopoly. Moreover, spirits labelled "Norway Blend" will in the future be described in the Norwegian language.

This price concession presents a novel attempt to devise a type of concession with respect to the operation of import monopolies which offers the equivalent of an ordinary tariff concession. In itself, it has, of course, an exclusive character. It may be that this type of concession contains the germs of a satisfactory formula, for some purposes, which would bridge the gap between trade conducted on the bases of private competition and that subject to the control of governmentally supported monopolies.[1]

Aspects of Anglo-Russian commercial relations.

The problem of commercial relations with a country such as Soviet Russia involves on a large scale the difficulties encountered in regard to monopoly organization for individual commodities in other countries. It is, therefore, interesting to find that in the temporary Anglo-Russian trade agreement of April 16, 1930, provisions appear which are very similar to those which have been employed in recent years in the import monopoly provisions of the American trade agreements.[2] Article 1 contains a reciprocal undertaking of most-favoured-nation treatment with respect to all facilities, rights and privileges relating to the prohibition and restriction of imports and exports. Implicitly admitting that more than this is required for trade relations with a country maintaining a State monopoly of all foreign trade, the Protocol defines most-favoured-nation assurances in the following terms :

> "In concluding the present Agreement the Contracting Parties are animated by the *intention to eliminate from their economic relations all forms of discrimination.* They accordingly agree that, so far as relates to the treatment accorded by each Party, to the trade with the other, *they will be guided in regard to the purchase and sale of goods*, in regard to the

[1] The principle of equality of treatment might require, for example, the generalization of price concessions.

[2] *Cmd* 3552.

employment of shipping and in regard to all similar matters *by commercial and financial considerations only* and, subject to such considerations, will adopt no legislative or administrative action of such a nature as to place the goods, shipping, trading organizations and trade in general of the other party in any respect in a position of inferiority as compared with the goods, shipping and trading organizations of any other foreign country. "[1]

Russia's particular concern in this undertaking on the part of the United Kingdom would, aside from the question of tariff treatment, centre chiefly on the possibility of utilizing the facilities provided by the British export credit guarantee system. Indeed, in the Protocol this is specifically mentioned in the section following the one quoted above. The more relevant aspect from the standpoint of this study is the attempt which it offers to fit a privately conducted export trade into a governmentally controlled import system upon a basis of non-discrimination or equality of treatment — a very difficult task indeed.

Subsequent to the denunciation of this agreement[2] a new temporary commercial agreement was signed with Russia on February 16, 1934.[3] Among the reasons given for a new agreement was the great disparity in the bilateral trade balance which was active to Russia.[4] It may be observed that when the 1930 agreement was concluded the British were not particularly concerned with bilateral trade balances. The President of the Board of Trade In March, 1934 made the following comments *inter alia* :

> " It is impossible to work a normal most-favoured-nation clause as an automatic piece of commercial policy when, on one side, you have a private individual acting as a trader, merchant, broker, shipowner and so on, and on the other side a State which can control the whole of the commercial transactions in and out of a country. It is quite obvious that, without an infringement of the most-favoured-nation clause, a State which is in that position is able to transfer its patronage from one

[1] Italics mine.

[2] For some aspects of this denunciation see *Board of Trade Journal*, April 27, 1933, p. 637 Also *The Economist*, London, September 2, 1933, p. 448

[3] *Cmd 4567*

[4] *Parliamentary Debates*, Commons, Official Report, Fifth Series, Volume 286, March 1, 1934, col 1290 " The Russians have now accepted our view that we cannot continue to buy largely from them while they buy so little from us. " *Ibid* Col. 1292, Statement by the President of the Board of Trade.

country to anothei, to make its purchases where it pleases, to close down its commercial relations where it pleases, without any infringement of the most-favoured-nation clause in its orthodox form "[1]

The most-favoured-nation clause was not, in the British view, "providing the United Kingdom with fair play in Russia".

Article 1 of the new agreement continued the general most-favoured-nation provisions qualified by the new framework established by the other provisions to the agreement. The United Kingdom, in spite of strong Russian opposition, succeeded in limiting its most-favoured-nation obligations in Article 2 with respect to prohibitions and restrictions on individual products for which "such prices are being created or maintained by the other Party, or by its State economic organizations, as are likely to frustrate preferences accorded, or detrimentally to affect the production of such goods" in either country (the United Kingdom)[2]

Article 3, perhaps the most significant to this discussion, contains the following Soviet undertaking :

"The Government of the Union of Soviet Socialist Republics, being desirous of applying in an increasing proportion the proceeds of the sale in the United Kingdom of goods imported from the Union of Soviet Socialist Republics to payment for goods purchased in the United Kingdom and for the utilization of British shipping services, will give effect to the arrangements with regard to an approximate balance of payments set out in the Schedule to the present Agreement."[3]

The first paragraph of the Schedule referred to provides for a gradual balancing of payments, with the stipulation that after 1937 the approximate balance of payments to be maintained is to be in the ratio of 1 : 1.1 (payments and receipts respectively). In the second paragraph the items to be considered in the calculation of the bilateral balance of payments are set out. The Russian Government undertakes, under the fifth paragraph, to conduct its trading operations so that any deficiency in the payments due to the United Kingdom in any year, under the ratios established, will not be more than 7.5 per cent of the amount provided for in the ratio.

[1] *Parliamentary Debates*, *op. cit.*, col. 1291-2

[2] *Ibid* col. 1403. This was made necessary because of the British assurance to Canada at Ottawa "to safeguard preference against the creation or maintenance of low prices by State action". *Ibid.* 1292.

[3] Italics mine

Essentially, the principal interest of the new agreement to this study lies in its denial of the application of any orthodox concept of equality of treatment to a complete State trading system. From another view it is a reflection of the difficulties of establishing satisfactory commercial relations with such countries. It may be observed, in this connection, that the new agreement has apparently not worked out satisfactorily in operation from the standpoint of the underlying British objectives which motivated the agreement.[1]

[1] The President of the Board of Trade has referred to the operation of this agreement, in the House of Commons, as very disappointing, stating that one of its chief results has been an increase in re-exports from the United Kingdom to Russia *The Times*, November 16, 1938.

CHAPTER VIII

THE PURCHASE AGREEMENTS

Purchase undertakings, in the form employed by the British-Government, constitute a commercial policy technique of prime significance. The Protocols to six Scandinavian and Baltic agreements, and one South American agreement, provide for the increased sales of British products in these countries through agreements between United Kingdom exporters and the respective importers in the foreign countries.[1] Four of the agreements introduce these assurances in substantially the following terms [2] :

> " *Representations having been made to the Estonian Delegation on behalf of* certain United Kingdom industries as a result of which statements had been made on behalf of groups of Estonian importers. The two Governments take note of the following conversations and statements ·... "

The Finnish agreement refers to " conversations .. between the Chairman and members of the Finnish delegation and representatives of certain United Kingdom industries and statements having been made on behalf of groups of Finnish importers. The Contracting Governments take note of the following conversations and statements..." Note is taken in the Danish agreement of the negotiations between the exporters and importers for each product specified. The Polish agreement on the other hand differs from these in being more vaguely worded and referring to the initiation of co-operative action between British exporters and British importers and " the conclusion of arrangements making for further co-operation ". Note is taken of the reports submitted with respect to these arrangements.

With the exception of the agreement with Poland, all the treaties above specifically refer to the products which are the subject of purchase undertakings. In the Danish agreement the contracting parties " take note of conversations which, in view of the present disparity in the balance of trade between the United Kingdom and Denmark, have taken place in regard to steps for increasing the sales in Denmark of

[1] Denmark, April 24, 1933, Estonia, July 11, 1934, Finland, September 29, 1933, Latvia, July 17, 1934, Lithuania, July 6, 1934, Poland, February 27, 1935, Peru, October 6, 1936, *cit.*

[2] Estonia, Latvia, Lithuania and Peru Italics mine

United Kingdom iron and steel ". Saltpetre, salt, jute cloth and parchment paper used in the manufacture of bacon, hams and butter, respectively, destined for the United Kingdom market are to be of British produce or manufacture.[1]

The other agreements also provide for similar undertakings. Poland is an exception to this since the specific agreements have apparently not been published. Iron and steel products are not mentioned in the Peruvian Protocol.[2] Other items specifically referred to in one or more agreements are commercial motor vehicles, fine chemicals, pharmaceuticals, agricultural, dairy and road making machinery, wool yarn, cotton thread, cement, wheat flour, creosote, products for the use of the wood-working industries, coal tar, super phosphates, refined sugar and textiles. These items are not provided for in the Danish agreement.

An interesting reservation regarding the Lithuanian purchase undertaking appears in the Anglo-Lithuanian agreement. Under its terms the Government of Lithuania may at the expiry of a twelve-month period, beginning from the effective date of the agreement, request further discussions with the British Government if alterations " have occurred in the economic circumstances of Lithuania which render such discussions desirable ". This may be taken, perhaps, as some indication of the scope of the Lithuanian undertakings. The official character which this reservation lends to the undertaking should also be observed.

The significance of these purchase agreements is much greater than may appear at first sight. It is the same Protocol, in the case of five of the agreements, which start off by referring to Britain's passive balance of trade.[3] The Polish agreement is also clearly one whose provisions depend upon balance of trade, while this element does not appear to have been lacking in the Peruvian Treaty.[4] It is the same

[1] These are, with the exception of parchment paper for wrapping butter, in the form of a series of agreements between manufacturing or producing organizations in Denmark and trade organizations in the United Kingdom.

[2] The Peruvian agreement refers to supplies from the United Kingdom for the cotton, wool and sugar producers in Peru.

[3] See *supra* p 54

[4] See Article 2 of the Anglo-Polish agreement which frees British goods of onerous compensation requirements because of the trade balance situation. *Op cit* For some interesting relevant comments on Anglo-Peruvian trade relations see the statement by M Barreda Laos, the Peruvian representative to the Montevideo Conference of 1933. *Minutes and Antecedents with General Index*, Seventh International Conference of American States, Montevideo, 1933, p 106

Protocol in the five agreements above which contain the coal clauses referred to earlier.[1]

With reference to these undertakings a British minister declared in the House of Commons [2] :

> " We considered whether, in dealing with this question of Danish trade, we could really get *sufficient improvement in our trade balance* by tariff concessions alone and we decided we must try, if possible, to adopt methods supplementary to tariff concessions. That was the origin of the purchase agreements which appear for the first time in the Danish Agreement. We considered that, wherever possible, we should bring together trade organizations in the two countries where these trade organizations were able to enter into binding agreements for industries as a whole, and, the respective Governments would take note of these undertakings. "

Under these circumstances the character of the purchase undertakings becomes more evident. They possess a quantitative character in that they aim directly at an increase in the volume of United Kingdom exports without recourse to the pricing mechanism as would occur under simple tariff concessions (whether or not preferential). Their principal objective, the expansion of British exports, is sought through the direct method of officially sponsored agreements between the exporters and importers concerned. The basis of the agreements is the bilateral balance of trade. The character of the specific undertakings must by their very nature involve conscious trade diversion. Competitive factors which would ordinarily determine the source of imports are set aside, for this is the only effective manner in which such undertakings could be fulfilled. If this were not true the assurances of the foreign contracting Governments would be superfluous and unnecessary.

The implications of the observations made above are not insignificant. From the standpoint of a country professing adherence to the most-favoured-nation clause, the results appear devastating to that instrument of commercial policy.[3] Provisions stemming from the bilateral trade balance can hardly be reconciled with the multilateral

[1] *Supra* p. 55

[2] *Parliamentary Debates*, Commons, Official Report, Fifth Series, Volume 277, May 10, 1936, col. 1667 Italics mine.

[3] The British authorities have many times in the past declared their adhesion to the most-favoured-nation clause *e.g Parliamentary Debates*, Commons, Official Report, Fifth Series, Volume 337, June 21, 1938, col 872 (statement by the President of Board of Trade).

principle of equality of treatment. The exclusive nature of the undertakings, for example the provision that jute cloth used in wrapping bacon and hams must be of United Kingdom manufacture, is open to the same comment. But perhaps the most sinister aspect of this new commercial policy technique lies in the substantially confidential character and the pseudo semi-private nature of such undertakings. Under such conditions the problem of observance of the most-favoured-nation principle becomes a difficult one to reach effectively. The door is open to wide departures from and derogations of the principle of non-discrimination.

On the other hand, assuming the most-favoured-nation principle is not the governing consideration, such undertakings enable a country in the short period to secure an immediate increase in exports which might not have otherwise been possible owing, *inter alia*, to existing competitive conditions. In any case, however, it provides a further set-back to the multilateral trading system.[1]

[1] These aspects will be considered in some detail in the final chapter of this report.

CHAPTER IX

INTERNATIONAL PAYMENTS : PAYMENTS AGREEMENTS

The United Kingdom has met the problem of international payments in a manner which differs quite radically from the American approach described earlier.[1] It will be recalled that the United States has endeavoured to build a general framework of commercial agreement provisions regarding the application of the principle of equality of treatment to all forms of trade control. To this end formulæ have been devised attempting to apply this principle in trade relations with exchange control countries as regards the allocation and rate of exchange for the settlement of current commercial debts. That considerable difficulties have been experienced in this endeavour has already been made clear.

British developments in this field are of wide interest since they represent an alternative approach, which the American Government has consciously shunned, to the question of trade relations with exchange control countries, a problem which is becoming one of outstanding importance in the commercial relations between nations. The most significant aspect of United Kingdom policy here has been the recourse to payments, clearing, compensation, and special trade organizations. For the purposes of this study, it is convenient to make a clear distinction, arbitrary in some respects, between payments and clearing agreements resting upon the presence or absence of the usual clearing mechanism.

The United Kingdom has concluded payments agreements with eight countries, *viz*. Argentina, Uruguay, Brazil, Germany, Hungary, Italy, Rumania, and Yugoslavia. Only brief consideration will be given to the Italian and Rumanian agreements since they were subsequently transformed into clearing agreements. The other agreements will be dealt with *seriatim* with chief emphasis upon the provisions regarding the liquidation of blocked debts and payments for current commercial transactions.

[1] *Supra* Chapter IV.

Argentina :

Far-reaching provisions relating to trade and payments were inserted into the Anglo-Argentine agreement of May 1, 1933.[1] Article 2 obliges the Argentine Government, in the following terms, to allocate practically 100 per cent of the sterling exchange arising out of exports to the United Kingdom for the purpose of meeting British exchange requirements :

> "Whenever any system of exchange control is in operation in Argentina, the conditions under which foreign currency shall be made available in any year shall be such as to secure that there shall be available, for the purpose of meeting applications for current remittances from Argentina to the United Kingdom, the full amount of the sterling exchange arising from the sale of Argentine products in the United Kingdom after the deduction of a reasonable sum annually towards the payment of the service of the Argentine public external debts (national, provincial and municipal) payable in countries other than the United Kingdom."

Subject to the stipulation concerning the servicing of the Argentine external public debts, the order in which the sterling exchange provided for is to be distributed among the various classes of applicants is to be determined by agreement between the contracting parties.

The third paragraph of this Article required the Argentine Government to set aside, from the exchange available under the section quoted above, the sterling equivalent of 12,000,000 paper pesos. This was to be employed to liquidate blocked peso balances awaiting exchange for remittance on May 1, 1933. To facilitate the settlement of peso balances still remaining after the above operation the issue of four per cent 20-year sterling bonds, the repayment of which was to begin in five years, was provided for in the fourth paragraph.[2]

Under paragraph 5 the Argentine Government "undertake that in no event shall applications for exchange for remittance to the United Kingdom, whether in respect of peso balances or of current transactions, be less favourably treated than similar applications for exchange for remittance to any other country". Regarded in the light of the above

[1] *Cmd. 4492.*

[2] For details concerning the bond issue see *The Economist*, London, October 14, 1933, pp 712-13; October 21, 1933, p 773, and October 28, 1933, pp. 819-20

provisions, the chief significance of this clause appears to be that it guarantees sterling exchange at the most favourable rate obtaining, *i.e.* from the standpoint of those wishing to transfer pesos into sterling, and secures that in the event of any other preferential arrangement being concluded by Argentina, British interests will not be placed in a relatively inferior position.

The final paragraph to this article provides for co-operation between the Governments to ensure that the amount of sterling exchange realized in Argentina from exports to Great Britain corresponds as closely as possible to the f.o.b. value of such products realized on the British market. This appears to be an attempt to prevent the transfer of such sterling for payments to countries other than the United Kingdom.

With the exception of the provisions regarding blocked peso balances, the Anglo-Argentine Agreement of December 1, 1936, continued the undertakings described above.[1]

Uruguay :

The Anglo-Uruguayan trade and payments agreement of June 26, 1935, is quite similar in scope and character to the Argentine agreement.[2] With respect to the general allocation of sterling exchange for current United Kingdom requirements the following undertaking appears : Uruguay is to allot each month, with a view to making sterling available to the extent of at least 95 per cent of the f.o.b. value of Uruguayan exports to the United Kingdom, an exchange quota equivalent to at least 76 per cent of the c.i.f. value of British imports from Uruguay during the penultimate month. The monthly average over a 12-month period, however, is not to be less than 80 per cent. "...it is estimated that the effect (of this provision) will be to allocate 100 per cent of the foreign exchange available as the result of Uruguayan exports to the United Kingdom." [3]

Article 8 of the Agreement assures importers from the United Kingdom of import licences up to the value for which exchange is

[1] *Cmd 5324.* Both agreements provide for the "benevolent treatment" of British capital including "due and legitimate protection of the interests concerned". *Op cit.* Protocols.

[2] *Cmd 4940.* The Argentine agreement was in fact used as a pattern for the negotiations See the interesting statement of Sr Pedro Cosio, Uruguayan Minister to the United Kingdom, appearing in *El Pueblo*, Montevideo December 11, 1935

[3] The British Board of Trade *Board of Trade Journal*, July 11, 1935, p 64. See also *La Mañana*, September 2 and 3, 1937.

made available under general sterling allocation undertaking, and also provides that the Uruguayan Government " will use their best endeavours to secure that *additional import licences and exchange permits* in respect of imports from the United Kingdom will be granted ".[1] Article 9 concerns the manner in which imports are to be restricted if exchange is insufficient during any month to meet payments for United Kingdom imports to any substantial degree.[2] Provision is made in Article 10 which endeavours to ensure that the benefits of the exchange régime established accrues to United Kingdom products. Re-exports are included within the scope of the agreement only in the proportion which they bore to the former in the year 1934. Attention is directed to the method employed here by which import restriction is integrated with exchange control.

Under Article 13, the Uruguayan Government undertakes that with respect to " rates of exchange and formalities connected with the allocation of exchange, the requirements of the United Kingdom shall receive treatment not less favourable than that accorded to the requirements of any other country." As with the Argentine agreement, this provision appears directed towards safeguarding the preferential treatment of United Kingdom requirements consolidated by the agreement.[3]

This agreement also contains undertakings regarding the transfer of blocked payment; claims falling under the Uruguayan law of November 9, 1934 may be settled in accordance with the terms of that law, *viz.* payment of 30 per cent in cash in foreign exchange and the delivery of three and one half per cent Five Year Gold Bonds for the remainder. Exchange requirements arising after the dates specified in the above law and prior to the date of entry into force of the agreement are to be dealt with on the basis of that law. Sterling exchange required for the redemption and servicing of Gold Bonds of the First and Second Series, and for the transfer of the 30 per cent in cash under the Uruguayan law referred to above is *not* to be met out of the general allocation of sterling for United Kingdom requirements mentioned earlier, but out of the general exchange resources of the National Bank of Uruguay.

[1] Italics mine.

[2] See *supra* p. 65

[3] The United Kingdom was already receiving somewhat similar exchange treatment prior to the negotiation of the agreement Department of Overseas Trade, *Economic Conditions in the Republic of Uruguay*, 1934, p 13-14. This should be considered in the light of Sr. Cosio's memorandum referred to above.

The service of the three and one half per cent bonds, and the Uruguayan Public Debt payable in London is to be met out of the general exchange quota.

The order of priority in which United Kingdom exchange requirements, other than the three and one half per cent bonds and the Public Debt above, are to be met is to be the subject of supplementary agreements from time to time between the two Governments. It is worth while observing that in the first supplementary agreement, appended to the text of the agreement under discussion, payments for imports of United Kingdom goods are given a position inferior to the following, in the order named : the Public Debt of Uruguay; the three and one half per cent bonds; interest on debentures; rent charges, income taxes (and arrears), expenses of the head offices in United Kingdom attributable to operations in Uruguay; and pensions earned in Uruguay and payable to persons in the United Kingdom.[1]

Brazil :

An agreement respecting the liquidation of blocked commercial debts was signed with Brazil on March 27, 1935.[2] The preamble reaffirmed a Brazilian undertaking to allow all imports after February 11, 1935, and 40 per cent of blocked payments owing for imports from September 11, 1934 to February 11, 1935, to be paid for by the purchase of exchange on the free market. For the purpose of liquidating all other commercial arrears regarding imports prior to February 12, 1935, the Brazilian Government undertook to set aside annually out of the exchange reserved for Government requirements an amount of £1,200,000, to which was to be added, if necessary, a further annual sum of £853,000 upon the termination of the blocked debts arrangement of June 1933.[3] Brazil was to endeavour under the terms of the agreement to apply a sum of £1,000,000 to the immediate payment in cash of all small blocked debts and a proportion of other commercial debts to be agreed upon between the two Governments. Arrears not liquidated by this latter amount were to be handled by the issue of four per cent sterling stock. Interest on the stock was

[1] *Op. cit*

[2] *Cmd. 4911.* Just prior to this Brazil had practically freed the exchange market of restrictions. In June 1935 exchange control was re-instituted. *Commercial and Financial Chronicle*, February 16, 1935, p. 1020, *The Economist*, London, July 6, 1935, p. 19.

[3] *Statist*, July, 1933, p 18.

to be met out of the annual allocations provided for above. Any balance not required for this purpose was to be used to redeem the stocks by repayment at par.

Article 7 of this agreement contained a Brazilian assurance to the effect that no more favourable arrangements regarding the liquidation of commercial debts would be made with any other country.

In Article 8, the contracting Governments agreed "that neither shall at any time discriminate against any persons in the United Kingdom or Brazil, as the case may be, either as regards the allocation and regulation of exchange or the grant of import licences with the object of regulating exchange." This reciprocal assurance was repeated in the exchange of notes regarding commercial relations of August 10, 1936.[1]

It should be observed that the Brazilian arrangements, in spite of the fact that transfer difficulties were and are quite serious, differ greatly from the British agreements with Argentina, Uruguay, and other countries. The principal reason for this difference, according to official information, appears to lie in the lack of effective British bargaining power on the basis of the Anglo-Brazilian bilateral balance of trade.[2] In this instance the British Government has endeavoured to secure simply equal treatment.[3]

Germany :

The series of payments agreements between the United Kingdom and Germany owe their origin to the accumulation of blocked commercial debts and the German defaults on long-term debts which faced the British Government in the first half of 1934.[4] Exchange allocations for commercial payments had by the middle of 1934 shrunk to almost zero. The long-term debt situation was particularly annoying to the British Government, in part because of the more favourable arrangements which Germany had concluded with certain other countries.[5]

[1] *Cmd 5267* This agreement was directed towards the establishment of reciprocal most-favoured-nation treatment in respect of all forms of trade control and was oriented along the lines of the American provisions

[2] See the statement of the President of the Board of Trade, *Parliamentary Debates*, Official Report, Fifth Series, Volume 313, June 23, 1936, col 1571

[3] There is general satisfaction in the City with the recent Brazilian assurance that equal treatment will be given British creditors in view of the arrangements recently concluded between the United States and Brazil for the resumption of payments on the dollar debt on July 1, 1939. *The Times*, June 6, 7, 1939

[4] See *The Economic Recovery of Germany*, C W. Guilleband, Macmillan & Co., London, 1939, p 61 *et seq.*

[5] See *The Economist*, London, December 16, 1933, p 1163.

In a note to the German Government, dated June 20, 1934, the United Kingdom referred to the fact that, in the circumstances, *i.e.*, the defaults and treatment accorded other countries, there was no option but "to ask Parliament for the immediate grant of power which would enable them to protect British financial and commercial interests".[1] The threat to impose a unilateral clearing, made possible under the powers secured from Parliament, resulted in a transfer agreement which provided for full payment on the British *tranche* of the Dawes and Young loans.[2]

In the preamble to the transfer agreement both recognized "the general principle that a debtor country can only meet its external debt obligations by means of a favourable balance of trade and services with foreign countries". Moreover, the contracting Governments expressed the desire that "trade and financial relations... should continue on a non-discriminatory and most friendly basis and that the volume of mutual trade should be maintained and as far as possible increased". In an exchange of letters, the German Government proposed the negotiation of an exchange agreement for commercial payments. In reply, the British Government, while assenting to this proposal, referred to the increasing volume of complaints respecting blockage of commercial debts and expressed the hope that "this unfortunate situation which must otherwise have serious effects on the trading relations and credit of Germany" would be remedied.[3]

An agreement regarding commercial payments was concluded on August 10, 1934. Article 1 permitted German importers to pay for imports falling within the scope of the agreement, and in excess of the amount for which exchange was allocated monthly under the German Exchange Control, by depositing Reichsmarks into a Special Account (Sonderkonto) to be opened at the Reichsbank in the name of the Bank of England[4]. Imports falling within the terms of the agreement were those bought by German and United Kingdom firms under general exchange permits. These did not authorize the importation of specific goods subject to import licences, controlled raw

[1] *Cmd. 4620* The result was the "Debts Clearing Offices and Import Restrictions Act", 1934, *24 and 25 Geo 5* Ch 31

[2] *Cmd 4640* In a letter dated June 15, 1934, the German Government expressed the hope that no unilateral clearing would be imposed *Cmd 4620*

[3] It is interesting to note the emphasis placed upon non-discrimination by the British Government in the papers cited above. However, referring to the transfer agreement the *Economist* remarked "The Germans have now clearly accorded us a very large measure of preferential treatment" July 7, 1934, p 9

[4] *Cmd 4702.* Definite limitations were placed upon the use of such facilities for German imports of commodities not produced, manufactured or processed in the United Kingdom.

materials and articles falling under the German Agricultural Monopolies.[1] Under Article 2 the Reichsbank could suspend payments into the Special Account if at any time the total amount of unsold Sondermarks exceeded RM 5,000,000.

The Bank of England was to sell the Sondermarks deposited in the Special Account to United Kingdom debtors to Germany and with the sterling proceeds pay British creditors in the chronological order of receipts into the Account by the corresponding German debtors.

Article 10 of the exchange agreement provided for negotiations in the event of a diversion occurring in the " trade in particular articles in handling which United Kingdom firms have habitually played the part of intermediaries ". Especially worthy of note is Article 11 which provides :

> " The contracting Governments recognize that the additional facilities, outside the general exchange control provisions, afforded by the Agreement for the export of goods from the United Kingdom to Germany, are *not intended to lead to any substantial alteration in the existing proportion between exports from the United Kingdom to Germany and exports from Germany to the United Kingdom* Should any such substantial alteration occur, the present Agreement shall forthwith be reconsidered by both parties. "[2]

This provision contrasts sharply with any of the pure trade agreements negotiated by the United Kingdom discussed above. Combined with the section of the preamble to the transfer agreement referred to above, it shows a disposition on the part of the United Kingdom to place financial interests in a position of priority as compared with current export trade. This is a tendency quite widespread in British external economic policy which will be met frequently in the ensuing discussion.[3]

The introduction of the New Plan for foreign trade in Germany in September 1934, which replaced the system of exchange quotas by one requiring exchange certificates for each individual transaction prior to the placing of an order abroad and the importation of the products concerned, necessitated the conclusion of an interim arrangement with the United Kingdom.[4] Exchange certificates authorizing payments

[1] *Board of Trade Journal*, August 16, 1934, p 257

[2] Italics mine

[3] For a questioning attitude regarding this priority see *The Economist*, June 20, 1934, p 1425.

[4] Carl Hermann Muller, *Grundriss der Devisenbewirtschaftung*, Spaeth & Linde, Berlin, 1938, p. 256 *et seq* Twenty-seven Control Boards were set up to administer the New Plan.

into the Sonderkonto were to be issued for the importation of articles covered by the Exchange Agreement to an extent corresponding to the current value of German imports from Britain.[1] The purpose was the maintenance of the existing position under interim arrangements and to avoid new restrictions on British exports to Germany. Additional categories of payments for which Sondermarks could be used were also specified. *Inter alia*, United Kingdom importers were permitted to use these marks for the purchase of German goods on their own account which they intended to ship to any overseas country. This apparently made it possible for United Kingdom interests to be paid off by exchange derived from the re-sale of such products in other countries.

The failure of British exporters to resort sufficiently to the Sondermark facilities, partly because of ignorance and partly because the discount on these marks as compared with the official Reichsmark rate was deemed too small to warrant disturbing the previous remittance practice, the exclusion of outstanding trade debts and controlled raw materials from its scope, and the operation of the New Plan, all pointed to the necessity of a new agreement between the two countries.[2] On November 1, 1934, a comprehensive payments agreement was signed by the two Governments which remained in effect until 1938.[3]

Under Article 1, current trade requirements were provided for by the German undertaking that each month 55 per cent of the average of the values of British imports from Germany and German exports to the United Kingdom, during the last month but one, was to be earmarked for payment to United Kingdom exporters. The sterling value of Sondermarks sold by the Bank of England during the current month, insolvent debts, and the value of German exports forming part of private compensation or barter arrangements for the direct exchange of British and German goods, in so far as no foreign exchange accrued to the Reichsbank, were deductible from the average export figure as determined above.

[1] *Board of Trade Journal*, September 27, 1934, p 473 Transfer of Reichsmarks into the Sonderkonto was temporarily suspended

[2] On November 3, 1934, the unsold Sonderkonto balance amounted to 4,850,000 RM., the amount awaiting transfer to this account totalled 13,975,000 RM, while Sondermark sales to date were only 1,045,000 RM *The Economist*, London, November 10, 1934, p 881. The blocked debts owed Lancashire interests were such that they imposed an embargo on yarn exports to Germany in August 1934 which continued until November 1934. *Ibid.* November 3, 1934, p. 871.

[3] *Cmd.* 4963.

If the exchange so provided was insufficient in any month, Germany could restrict the issuance of exchange certificates, but with respect to the items particularized in the agreement only to the extent that imports in any month exceeded imports of the average quantity imported during the corresponding period of the years 1932 and 1933.[1] Exchange certificates were to be issued, in any event, for the importation of the full amount of coal and coke provided for by the exchange of notes of April 13, 1934. Germany gave a further assurance that any measures regarding the allocation of exchange for raw materials and foodstuffs which might reduce the usual proportions of these goods supplied Germany by purchases through the United Kingdom or as re-exports from the United Kingdom or direct from the British Colonies would be avoided.

Article 3 brought payments for freight carried in British ships within the terms of the agreement. Article 5 terminated the Sondermark agreement (except for payments due before November 1) and provided for the continued sale of Sondermarks by the Bank of England. If these mark balances were not liquidated within three months, they were to be settled through the exchange earmarked under the 55 per cent clause.

Provision was also made for the transfer of outstanding commercial debts. The Reichsbank undertook in Article 4 to provide at least £400,000 on the signature of the agreement for this purpose. Germany further promised to seek to expedite this process, including the liquidation of Sondermarks "by the realization of outstanding German commercial claims on the United Kingdom, whether by a credit operation or otherwise". So long as outstanding debts existed which were not completely settled under the preceding arrangements, the Reichsbank was to allocate, under Article 6, sufficient exchange to permit liquidation to be completed within twelve months from November 1st. The amount of this allocation was provisionally fixed at 10 per cent. of the value of German exports to the United Kingdom calculated on the basis referred to above. The two Governments were to subject outstanding debts due before March 1, 1934, to special examination to determine whether they should be discharged under Articles 4 or 6.[2]

[1] The items particularized in Article 1 (1), *i.e.*, for which exchange permits were to be issued, were coal and coke for use in the German Customs area, coal for use as bunkers and in free harbour areas, herrings, yarns, tissues, textile manufactures

[2] Article 7 provided for the continuance after December 31, 1934, of the payments due on the Dawes and Young loans.

In an exchange of letters, appended to the text of the agreement proper, note was taken of a clearing agreement which had been initialled and which was to come into force if the payments agreement were denounced.

It is worth while pointing out that for January and February 1935, the total issue of foreign exchange certificates could be restricted to R.M. 17,000,000 for each month, which was estimated to represent the 55 per cent allocation provided above The reason given by the Joint Consultative Committee, established under Article 10 of the agreement, was the desire to forestall foreign exchange requirements for current imports from exceeding the 55 per cent limit.[1] Thus, current trade was checked in the interests of other payments, including outstanding debts.

The German absorption of Austria necessitated the amendment of the November, 1934 agreement to take this into account. This was concluded on July 1, 1938.[2] As in the preamble to the transfer agreement of July 4, 1934, which was repeated in the agreement of November 1st, 1934, reference was made to the "earnest desire" of both Governments that trade relations should continue on a "non-discriminatory and most friendly basis." The principal change effected by the amending agreement was the abrogation of the 55 per cent provision, which was replaced by the following :

> "The Reichsbank will, out of the foreign exchange received from German exports to the United Kingdom, earmark each quarter for the payment of United Kingdom exports to Germany an amount of £4½ millions If, however, the average between the value of exports from Germany to the United Kingdom during the preceding quarter as shown by German statistics, on one hand, and the value of imports into the United Kingdom from Germany during the same quarter, as shown by United Kingdom statistics, on the other hand .. exceeds or falls short of £7½ millions, then the amount of £4½ millions shall be increased or decreased by nine-tenths of the excess or deficiency of the said amount of £7½ millions."

Thus, for example, if German exports per annum to Britain exceed £30,000,000, and they did in 1933, the lowest point reached in recent years, foreign exchange will be earmarked for imports of United

[1] *Board of Trade Journal*, January 10, 1935, p 44.
[2] *Cmd. 5787.*

Kingdom goods to the extent of £18,000,000 and 90 per cent of the excess over £30,000,000.

Under the terms of the amending agreement, if the difference between the total sterling exchange accruing to the Reichsbank and the amount earmarked is less than is necessary to cover Germany's financial obligations to the United Kingdom, the German Government may approach the British Government with a view towards reducing the amount of exchange earmarked for imports of British goods into Germany. Current trade is thus given a position inferior to that of financial interests.

No modification is made regarding the arrangements for the allocation of exchange for the various classes of goods on the basis of trade in the years 1932 and 1933. Technical and engineering products are added to the list of particularized items. A general provision in the agreement relating to consultation between Government representatives with respect to the detailed application of the agreement has been elaborated upon by the Board of Trade as including an arrangement for a larger proportion of sterling to be made available for the purchase of finished goods.[1]

It may be observed that Germany secures a considerable amount of free exchange in its trade with Britain, taking into account all of the payments involved.[2] The liquidation of commercial arrears was apparently completed in 1936.

Hungary :

A payments agreement was concluded with Hungary in 1936 for the purpose of liquidating outstanding trade debts and ensuring that a proportion of the sterling proceeds of Hungarian exports would be set aside for the payment of imports of British origin.[3] The Hungarian National Bank undertook to allocate monthly, beginning February 1, 1936, £6,000 for the payment of trade debts due prior to November 1, 1935.

From February 1, 1936, the National Bank is to allocate every month for current trade debts due on or after November 1935, 60 per cent of the sterling exchange which it actually receives from exports to the United Kingdom. If in any period of three months the amount

[1] *Board of Trade Journal*, July 7, 1938, p 8

[2] See *The Statist*, September 1, 1937, *The Times*, June 29, 1939

[3] Board of Trade, *Anglo-Hungarian Payments Agreement*, February 1, 1936

of exchange which the National Bank derives from such exports is greater or less than 43 per cent of the value of Hungarian exports to the United Kingdom, then for the next three months the "primary sterling quota" (the 60 per cent) is to be reduced or increased by an amount by which such quota exceeds or falls short of 60 per cent of 43 per cent.[1] The purpose of this adjustment is to maintain the ratio between the "primary sterling quota" and the value of exports to the United Kingdom. This provision for "adjusted sterling quotas" does not become operative unless the amount of sterling obtained by the National Bank from exports to Britain is either greater than 48 per cent or less than 38 per cent of the value of such exports.

From the amounts to be allocated during any three months period the National Bank may deduct payments made for imports into Hungary from the United Kingdom by persons possessing special licences to use exchange arising out of their exports of Hungarian products, *i.e.*, "self-compensation". Such deductions may not exceed one quarter of the three monthly quotas for that period.

Should the sterling quotas for any three months exceed £112,000, one half of the excess is to be applied to increase the allocation for those months, and the remaining half may be employed to pay for imports of British re-exports. The total amount thus allocated to re-exports may not be such as to reduce below £450,000 the total sterling quotas allotted during the 12-months period for articles, the produce or manufacture of the United Kingdom.

The balance of the sterling proceeds of Hungarian exports to the United Kingdom is placed at the free disposal of the National Bank of Hungary.

Trade and payments are integrated by the provision requiring the National Bank to notify the British Legation of the approximate amount of sterling which will be available on current trade account during the following quarterly period to permit the grant of import licences for British goods to be arranged by the Hungarian Ministry of Commerce "in such a manner as will enable the amount so available to be fully employed and to be distributed in normal proportions between different classes of goods". Import licences are thus issued only up to the available amount of sterling reported by the National Bank to the Ministry of Commerce.[2]

[1] Trade statistics of Hungarian exports are to be used for this purpose.

[2] Department of Overseas Trade *Report on Economic and Commercial Conditions in Hungary*, 1935-37, p. 17.

Italy :

In the provisional commercial Anglo-Italian agreement of March 18, 1935, the Italian Government guaranteed "that all devisen accruing from Italian imports into the United Kingdom as from the date of the signature of the provisional agreement *shall be devoted exclusively* to the payment of United Kingdom imports into Italy".[1] The British Government earmarks in this fashion for United Kingdom requirements the whole of the sterling proceeds of its imports from Italy.

Rumania :

Two payments agreements were negotiated with Rumania in 1935 relating to blocked trade debts and current trade. The first, concluded February 8, 1935, obliged Rumania to pay £400,000 into a Special Account before February 28, 1939, for the immediate payment in full of all "recognized debts" not exceeding £20, and for those greater than this sum £20 or 20 per cent, whichever was greater.[2] In addition, the Rumanian Government undertook to pay monthly into the Special Account £60,000 which was to be applied in chronological order to recognized debts not settled under the provision above. If the first sum referred to above was not sufficient for the purpose, the latter sums provided were to be employed.[3] The monthly allocation was, moreover, to be varied up or down if the value of United Kingdom imports differed substantially from the value in the corresponding period of 1934. All reasonable facilities for the exportation of articles available in Rumania for the liquidation of "recognized debts" were to be afforded by the Rumanian Government.

So long as the monthly sterling allocation was provided for, the Rumanian Government was permitted to restrict the importation of British goods in any quarterly period to 55 per cent (not less) of the value of Rumanian exports during the preceding quarter. The application of such restrictions was to be so operated as "not to vary

[1] *Op cit.*

[2] *Cmd 4820* "Recognized debts" are defined in Article 8 as all debts due for United Kingdom goods before March 1, 1935, which have been "deposited in lei at a Bank authorized by the Rumanian National Bank or notified to and accepted by the Rumanian National Bank"

[3] The rate of exchange for payment of "recognized debts" was to be the official buying rate so long as any exchange derived from Rumanian exports had to be surrendered to the Rumanian authorities at a fixed rate

between different classes of imports of United Kingdom goods the proportions established by imports of such goods in the years 1933-34 ". Payments due after March 1, 1935 were to be made by purchases of foreign exchange in the free market and no restrictions whatever were to be placed upon purchase of such exchange. Moreover, at least 40 per cent of the sterling exchange arising from the sale of mineral oil to the United Kingdom, and at least 70 per cent of the exchange originating from the sale of all other goods to the United Kingdom were to be released for sale in the free market.

These provisions were superseded by those in the Payments Agreement of August 3, 1935.[1] For the settlement of outstanding trade debts Rumania undertook to provide a definite sum of £370,000, and, in addition, five per cent of the sterling proceeds of Rumanian exports to the United Kingdom.[2] The monthly instalments for May and June under the previous agreements comprised £100,000 of this amount and were to be available by August 15. The remaining £270,000 was to be set aside by November 15 and was to be derived from the export to the United Kingdom of 50,000 metric tons of wheat and 30,000 of barley and such additional amounts as might be necessary to realise £270,000. Finally, the Rumanian Government promised to consider favourably the possibility of granting facilities for the exportation of goods available in Rumania for the settlement of any recognized debt.

In the Annex to the Agreement, Rumania declared she would meet the coupon due on August 1, 1935, in regard to the sterling *tranche* of the Monopolies Institute seven per cent loan of 1929 by providing special exports of wheat and barley to the United Kingdom.

General arrangements for the allocation of sterling arising out of Rumanian exports to the United Kingdom were also included in the agreement : 50 per cent for payments for United Kingdom goods falling due on or after August 1, 1935 (£80,000 for the month of August 1935);[3] provided the £370,000 above is paid, 5 per cent is allocated for outstanding trade debts, subject to increase should Rumania undertake to pay more to any other country; 30 per cent was

[1] *Cmd 4976*

[2] Outstanding debts are those due before August 1, 1935. " Recognized debts " have the same meaning as in the previous agreement.

[3] In calculating this there was to be deducted from the value of United Kingdom imports from Rumania the value of wheat and barley exports specifically provided for in the agreement, imports of Rumanian goods " for the settlement of any recognized debt ", and 15 per cent representing freight, insurance, etc

earmarked for requirements in the United Kingdom of the Rumanian Government and the Monopolies Institute; finally if the first and third percentual allocations above proved sufficient to meet the obligations referred to, 15 per cent was placed at the free disposal of the Rumanian National Bank.

The Government of Rumania could, under Article 6, restrict imports of United Kingdom goods during any quarterly period to 50 per cent of the value of Romanian products exported to Britain during the preceding quarter. Such restrictions as might be put into operation were not to "vary between the different classes of imports of United Kingdom goods the proportions established by such imports in the years 1933-34." This contrasted, it should be noted, with the figure of 55 per cent which was stipulated in this respect in the previous agreement. Other claims were thus put before current trade.

Yugoslavia :

An Agreement relating to trade and payments was negotiated with Yugoslavia in 1936.[1] Under an import control system instituted a short time before to redress the existing passive trade balances with certain non-clearing countries, about three-fifths of the imports customarily coming from the United Kingdom were made subject to import licence requirements.[2] In the agreement, the Yugoslav Government undertook with regard to such products to issue sufficient import licences on the basis of "the total value of exports from Yugoslavia to the United Kingdom". In addition, permits are to be issued "for the purchase of the free foreign exchange required for payment in full at the due date for all such goods and for incidental payments arising from the purchase of such goods, including freight, insurance and commission."[3] While any possible blockage of payments in the future is prevented by the co-ordination of import and exchange control, Yugoslavia's rigid bilateral policy, dictated in an important measure by the necessity of liquidating certain clearing balances, in this case

[1] November 27, 1936, *Cmd 5323*

[2] Department of Overseas Trade, *Report on Economic and Commercial Conditions in Yugoslavia*, July 1938, p. 10-11 This is one of the relatively few countries with which Britain had a "favourable" balance of trade. In 1936 and 1937 the trade balance turned active to Yugoslavia *Op. cit.* p. 36.

[3] Free foreign exchange is specifically defined as "sterling or currency, other than Yugoslav currency, the conversion of which into sterling is not subject to any restriction."

has directly and perceptibly affected adversely the British trade position in this market.[1]

Latvia :

The exchange provisions of the Anglo-Latvian agreements while differing from those considered above are of relevance here. In the exchange of notes of July 6, 1933, Latvia undertook to abstain from imposing any tax on purchases of foreign exchange required to pay for herring imports.[2] Applications for exchange for such purposes, moreover, were to be granted in full with as little delay as possible, though it was recognized that in the event of "an abnormal amount" of exchange applications some delay might be necessary. In the expanded agreement signed in 1934, this undertaking regarding a tax on exchange was generalized to cover all United Kingdom goods and payments due British shipping interests. In both cases, the British Government reserved the right to terminate the entire agreement if this provision was not fulfilled. It may be observed that the imposition of such a tax would amount to a depreciation of the Lat for purposes of payments due the United Kingdom.

SOME CONCLUSIONS :

Three important conclusions appear to emerge from the above discussion. In the first place, it is clear that a vital function assigned to the British payments agreements has been the liquidation of blocked trade arrears and the transfer of financial payments. The flow of current trade has apparently been subordinated to debt collection. Trade debts owed British exporters have been settled through funding arrangements in some cases, lump-sum sterling allocations in others, and priority over current exports in practically all cases. In the second Rumanian agreement described, even the exports of specified quantities of grain were undertaken for this purpose.

More significant in some respects is the position of priority over current trade accorded the transfer of financial debts due United Kingdom creditors. The lengths to which this transfer priority has been carried

[1] Department of Overseas Trade, *op cit* p. 11 It is reported that the Anglo-Yugoslav agreement also provided for the maintenance of a margin of exports over imports from the United Kingdom *Le Contrôle des Changes en Yougoslavie*, Alex Yovanovitch, (mimeographed document) Internationale Institut of Intellectual Co-opération, Paris, 1939, pp 11-12.

[2] *Op cit.*

are illustrated by amendment to the Anglo-German payments agreement of November 1934 in which provision is made for reduction of the amount of foreign exchange earmarked for United Kingdom goods should the sterling available under the terms of the agreement prove insufficient to meet German financial obligations to British creditors. It is also worth while recalling in this connection the British Government's express approval of Germany's active balance of trade with the United Kingdom. This contrasts vividly with the position taken regarding British trade relations with numerous other countries.

The second outstanding characteristic of these agreements is the integration of trade and payments provided for and the method in which this has been sought. In the most recent exchange article devised by the United States, this problem has been met by the prohibition of any restriction upon the transfer of current commercial payments to the United States with the proviso that if the country concerned deems it necessary to place some restrictions upon payments "to maintain the exchange value of the currency" this may be done through the imposition of quantitative restrictions upon imports. In this event the most-favoured-nation principle as defined in the quota articles is to be applied.

Essentially, the co-ordination of trade and exchange control affecting United Kingdom exports provided by the British agreements rests upon the earmarking for United Kingdom requirements the sterling arising out of British imports from the countries concerned. Provision is then made whereby the foreign contracting Government undertakes to allow British exports up to the extent necessary to exhaust the exchange allotments for current trade. This is further knitted into the whole complex of bilateral payments so that restrictions upon British exports are provided for not only to prevent outstanding trade debts from accumulating but also to secure the transfer of previous trade debts and financial claims.

The question of blockage and possible discrimination does not, therefore, arise. The restriction of exports to prevent blockage is similar in principle to the new American exchange article and rests upon the thesis that it is preferable to have a smaller volume of exports than a larger volume accompanied by blockages, notwithstanding the effect this may ultimately have upon the position of United Kingdom trade interests in the markets concerned. The methods employed, however, to say nothing of the restriction of British exports in the interests of

financial creditors, differ enormously from those used by the American Government.

The third important observation to be made here refers to the strongly bilateral character of the agreements discussed. While this has already become quite apparent it merits further comment. There is no basic thread of equality of treatment running through the payments agreements. On the contrary, the general character of these arrangements is preferential since the British Government has reserved without regard to the total available exchange assets most, if not all, of the sterling exchange derived from British imports from the contracting countries. The multilateral basis to international payments is thus completely set aside with the corollary that the most-favoured-nation principle of equality of treatment is disregarded. It was not the result of any different policy that this procedure has not been applied to Anglo-Brazilian relations. Britain's active trade balance did not offer the necessary bargaining power.

It should be observed, finally, that it is in terms of this preferential exchange treatment that the British Government defines non-discrimination. But this should not be confused with non-discrimination in the form of equality of treatment, which is a totally different concept. Preferential treatment is certainly non-discriminatory as regards the country receiving it but it can hardly mean by its very nature equal treatment for other countries of the world at large.

Some mention should also be made of certain other clauses in these agreements. The wide use of certificates of origin to restrict the benefits to British produced or manufactured goods is indicative of the rigid character of such agreements, the breakdown of the multilateral system, and the preferential treatment accorded the United Kingdom.[1] Similarly, the provision maintaining the proportions of the various classes of goods supplied in previous specified years reveals the strait-jacket into which the economic forces of the market have been put. Restrictions upon the extent to which re-exports may be included within the scope of the agreement are open to similar comment and constitute a further blow to Britain's entrepôt trade.[2]

[1] Certificates of origin are also, of course, required in all of Britain's clearing agreements which are discussed below

[2] "It is difficult to exaggerate the damage which has been done to the British entrepôt trade and to the London Money Market by the spread of the practices of bilateralism". Professor Lionel Robbins, "The Export Problem", Lloyds Bank Limited, *Monthly Review*, July, 1939

CHAPTER X

INTERNATIONAL PAYMENTS : CLEARING AGREEMENTS

More drastic methods than payments agreements to collect trade and financial debts, and to regulate bilateral trade relations have also been resorted to. As was observed earlier, German recalcitrance regarding the payment of financial obligations to the United Kingdom, particularly in respect to the British tranches of the Dawes and Young Loan, led the Government to request authority from Parliament to institute clearing arrangements with foreign countries. Under the powers conferred by Section 1 of the Debts Clearing Offices and Import Restrictions Act of June 28, 1934, clearing agreements have been concluded with four countries, *viz.*, Spain, Italy, Turkey, and Rumania.[1] Owing to the Spanish Civil War, the agreement with Spain was suspended soon after its inception.[2] Numerous modifications and differences, moreover, appear in the present agreements now in effect with the other three countries as compared with the original arrangements. While consideration will be given to these evolutionary aspects, it will be convenient for the purposes of this analysis to place the emphasis upon the existing clearing provisions in effect.

Spain.

The increasing delays experienced by British exporters in securing payment for shipments to Spain resulted in the conclusion of an Anglo-Spanish clearing agreement on January 6, 1936.[3] In its simplicity this agreement approached closely some of the payments agreements discussed earlier. All payments due United Kingdom exporters and certain other remittances were to be paid into a Peseta Account, opened at the *Banco Exterior de España* in the name of the Spanish Exchange Control Institute.[4] Included among such payments were re-exports of a "normal character", remittances for freight, interest, dividends, profits, rents, insurance, royalties, fees, commissions, *etc.*[5] These

[1] *24 & 25 Geo. 5.* Ch. 31.

[2] *Board of Trade Journal*, August 13, 1936, p. 233; December 24, 1936, p. 901.

[3] *Cmd. 5097.* At the date of entry into force of the agreement, arrears amounted to £6,500,000. *Parliamentary Debates*, Commons, Official Report, Fifth Series, Volume 313, June 24, 1936, Col. 1773.

[4] *Centro Official de Contratacion de Moneda*

[5] Such re-exports excluded those originating in countries with which Spain has or may have clearing or similar agreements.

peseta deposits were to be blocked until transferred through the Sterling Account set up at the Bank of England, in the name of the Anglo-Spanish Clearing Office. The latter account was to receive all payments due to Spain for the price of Spanish goods imported into the United Kingdom, subject to deductions for customs, freight, charges, and commissions payable in the United Kingdom. The Anglo-Spanish Clearing Office could assign for approved purposes part of the sterling due to this office in respect of imports from Spain of minerals by companies incorporated in the United Kingdom and engaged in mining in Spain.

As sterling became available in the Sterling Account, the pesetas deposited in the Peseta Account in payment of Spanish debts were to be transferred to persons in the United Kingdom to whom the respective debts were owing.[1] The debtor was made responsible for the full sterling amount due and any difference in the rate of exchange between the dates of deposit and transfer was to be credited or debited to the Spanish debtor. The detailed working out of this provision was made the subject of further agreement with the proviso that trade debts were to have priority over other debts and payments. In an amendment, signed June 6, 1936, freight for the carriage of goods and passengers was bracketed with trade debts, the order of priority *inter se* being prescribed by the United Kingdom.[2]

Conversely, the *Banco Exterior de España*, upon being advised of payments made to the Clearing Office, was to pay Spanish creditors the full peseta sums due from United Kingdom debtors. Where the debt was expressed in pesetas, the full peseta amount was to be paid the Spanish creditor from the Peseta Account. The British debtor was obliged to pay to the Clearing Office the sterling equivalent of this debt at the rate of exchange in London on the day of payment to the Clearing Office. If the debt was expressed in a currency other than sterling the debtor paid a sterling amount corresponding to the sum due in such currency at the rate of exchange on the date of payment.

Should all applications for transfer of payments to the United Kingdom be met without delay, the Agreement provided for the termination of the provision requiring payments to be made into the Sterling Account. In this event, payments could be remitted directly from the United Kingdom debtor to the Spanish creditor, thus, in fact, ending the agreement.

[1] Newfoundland was also included in this provision.
[2] *Cmd. 5250.*

The effect of the agreement has been officially described as assuring that " the whole of the sterling arising from United Kingdom purchases of Spanish products will be used for the requirements of the United Kingdom ".[1] In the same statement a warning was issued to British exporters to the effect that an " abnormal expansion in exports in the expectation of prompt payment would be bound to defeat the objects of the agreement, and might even necessitate the imposition of some measure of control ".[2]

Italy.

A unilateral clearing agreement, voluntary for British importers, was concluded with Italy in April, 1935.[3] This was quite similar in scope to the agreement above, providing for the establishment of a Lire Account with the National Foreign Exchange Institute[4] in Italy, and a Sterling Account at the Bank of England. The Italian debtor was responsible for any differences in the exchange rates between the day of deposit into the Lire Account and the day of transfer to the United Kingdom creditor, through the Sterling Account. Sums were to be transferred from the Sterling Account to United Kingdom creditors in chronological order.

The Italian creditors were to be required to notify British debtors that their claims would be satisfied by payment of the amounts due into the Sterling Account.[5] Where the British debts were payable in lire, payment was to be made on the basis of the official Italian rate of exchange on the last working day before the day of payment. If stated in another currency, the current rate of exchange in London on the date of payment was provided for. Lire payments by the Italian National Institute of Foreign Exchange to Italian creditors, upon notification of payment into the Sterling Account, were to be made at the official buying rate for sterling ruling in Italy on the day on which the sterling was realized.

Outstanding trade and freight debts due prior to March 18, 1935, were provided for outside the clearing. The sterling proceeds of Italian

[1] Board of Trade, *Board of Trade Journal*, January 9, 1936, p 51

[2] *Op. cit.*

[3] *Cmd. 4960.* This was, of course, compulsory for Italian traders. See the *Gazzetta Ufficiale*, April 27, 1935.

[4] *Istituto Nazionale per i cambi con l'Estero*

[5] Re-exports of a " normal character " from the United Kingdom were included within the scope of the agreement

credits in the United Kingdom for Italian exports prior to this date were earmarked for the discharge of these debts.[1]

The British Government undertook to bring the clearing mechanism set up under the terms of the agreement to the attention of the trade interests concerned, and to encourage its use by British debtors. In fact, several strong appeals were issued by the Board of Trade regarding the employment of the clearing machinery by British traders.[2] The unilateral character of the agreement was undoubtedly an important factor which caused trade debts to pile up under the operation of the agreement. In November 1935 the Board of Trade, referring to the accumulation of arrears, warned exporters concerning contemplated exports to Italy.[3]

A note to the agreement provided that foreign exchange " received from the sale of Italian goods exported to Newfoundland shall be devoted to meeting debts due in respect of the importation of goods of Newfoundland origin into Italy". To the extent such exchange was insufficient for the purpose, recourse could be had to the Sterling Account.

The agreement also provided for private compensation, subject to the specific approval of both Governments.

During the period of economic sanctions against Italy, this agreement became inoperative. A Controller of Anglo-Italian debts was appointed in November 1935, and all British debts had to be paid compulsorily into the Sterling Account at the Bank of England.[4] Sums available in this account continued to be transferred to United Kingdom creditors for British goods shipped prior to November 18, 1935, the beginning of British sanctions, and freight payments deposited in the Lire Account. In July, 1936, however, with the termination of sanctions, an Anglo-Italian Clearing Office was set up, to which payment of all sums owed by British debtors to Italian creditors in respect of goods and freight was obligatory.[5] Thus the voluntary system obtaining previous to the sanctions period was not reverted to.[6] Owing to the

[1] The National Foreign Exchange Institute undertook to collect the necessary information concerning such debts.

[2] *Board of Trade Journal*, May 2, 1935, p 736, 737, June 27, 1935, p 1015, November 7, 1935, p 638

[3] *Ibid.*

[4] *Board of Trade Journal*, November 14, 1935, p. 691, December 19, 1935, p 854. *Statutory Rules and Orders*, 1935, No 1090

[5] *Statutory Rules and Orders, 1936, No 696*

[6] " We have tried the voluntary method because we did not like the cumpulsory clearings, but it did not work satisfactorily, and we were inundated with complaints about the operation of the Anglo-Italian Trade Agreement ", Financial Secretary to the Treasury, *Parliamentary Debates*, Commons, Official Report, Fifth Series, Volume 334, April 8, 1938, Col. 704.

absence of any agreement between the two Governments regarding the disposition of the sterling newly collected by the Clearing Office, deposits were placed in a reserve fund at the Bank of England until a further Order was issued by the Treasury concerning their disposal.

The refusal of the Italian Government to include frozen debts in any new arrangement delayed the conclusion of a clearing agreement until November 6, 1936.[1] This agreement established a bilateral clearing compulsory at both ends.[2] As with the earlier agreement, two general accounts were provided, a Lire New Account in Italy, and a Sterling General Account in the United Kingdom. In addition, corresponding Sub-Accounts were set up providing for the detailed application of the funds received into the general accounts. Sterling proceeds of United Kingdom imports, payable into the Sterling General Account, were to be allocated as follows :

(i) 18 per cent to Sterling Arrears Account " A " for the payment of Italian debts in respect of goods and freights due after March 17, 1935, and before November 18, 1935 — *i e.* " agreement debts ".

(ii) 9 per cent to Sterling Arrears Account " B " for commercial arrears and freights due prior to March 18, 1935, and after November 17, 1935, but before July, 16, 1936.[3]

(iii) 3 per cent to Sterling Arrears Account " C " for financial debts and remittances.

(iv) 70 per cent to Sterling New Account for all trade debts after July 14, 1936, with priority given freight payments — *i. e* current trade account.

Under this allocation, 27 per cent was thus devoted to the liquidation of commercial arrears. Any balance not required for current trade on December 31, 1936, and at the end of each subsequent quarter, was to be applied to commercial arrears in the proportions given above. Sterling collected by the Clearing Office between July 15, 1936, and November 15, 1936, and placed in the reserve fund was to be transferred as to 50 per cent to current trade, and as to 50 per cent to arrears. Outstanding trade debts, within the classes, provided were to be liquidated in chronological order of the deposits in Italy. Provision was also

[1] *Parliamentary Debates*, Commons, Volume 315, July 30, 1936, Col 1725.
[2] *Cmd. 5346; Statutory Rules and Orders, 1936, No 1193.*
[3] Italian colonies and possessions are included in the scope of this provision.

made for the transfer of blocked lire, with certain exceptions, to a *Conto Loro Vecchio* for investments and travel in Italy by the holders.[1]

Corresponding lire accounts were established in Italy to receive payments from Italian debtors, the lire proceeds of which were to be paid to Italian creditors.[2] The rate of conversion of lire into sterling was established at the rate for sterling on the Rome Bourse on the day on which advice of payment is sent to the Clearing Office. The Italian debtor was responsible to the British creditor for the full sterling amount due except with regard to commercial arrears which, under the Italian Ministerial Decree of November 20, 1935, the Italian debtor paid a deposit in lire and received a full discharge. In this case the lire were to be re-converted into sterling at the fixed rate of 64.46 lire to the pound.[3]

To make certain that sufficient sterling would be available for liquidating arrears, as well as for current trade, severe restriction of United Kingdom exports to Italy, under the commercial agreement negotiated at the same time, was provided for.[4] The Financial Secretary to the Treasury stated in this connection, that it was "contemplated that for a period, in order to make certain funds are available for both current trade and arrears, there shall be a surplus of imports from Italy."[5] It may be observed that since at least the beginning of the present century, the United Kingdom had an active balance of trade with Italy.[6]

These provisions liquidated by the early part of 1938 practically all the commercial arrears owed to British creditors, with the result that an amending agreement was signed providing for the re-allocation of the earmarked sterling.[7] The 1936 agreement as so amended still remains in effect. Sums credited to the Sterling General Account are now allocated as follows :

(i) 46 per cent to Sterling Coal Sub-Account for the payment, in chronological order of deposit into the corresponding lire account, of British coal exports to Italy (f. o b. price).

[1] For details see Anglo-Italian Clearing Office, *Memorandum*, I M No 3, November, 1936

[2] Debts arising out of Newfoundland exports of codfish and stockfish to Italy were to be handled in the same way as United Kingdom exports.

[3] *Gazzetta Ufficiale*, December 21, 1936

[4] *Supra* p 58 ff. and *Board of Trade Journal*, November 12, 1936, p. 698

[5] *Parliamentary Debates*, Commons, Volume 318, November 26, 1936, Col. 716

[6] *Annuario Statistico Italiano*, Anno 1936, XIV.

[7] March 18, 1938, *Cmd 5695* Through an exchange of notes dated December 24, 1937, certain transfers were made from Sterling Arrears Accounts "A" and "B" to "C" and Sterling New Account to make up deficiencies in the latter accounts

(ii) 41 per cent to Sterling Sub-Account " D " for the payment of other British goods, freights, (except for coal), films, and Newfoundland codfish and stockfish, (including freight thereon due British shipowners), freights receive priority of transfer.

(iii) 6½ per cent to Sterling Arrears Account " A " for the transfer, in chronological order of deposit into the corresponding lire account, of outstanding trade and freight debts due after March 17, 1935, and before November 18, 1935, (i. e. old agreement debts); subject to the retention of £10,000, any balance up to £30,000 is placed at the " free " disposal of the Italian National Foreign Exchange Institute, transfer of payments for freight and insurance on United Kingdom exports is to be made partly out of this free allocation and partly, to the extent the latter is insufficient, by providing sterling from sources outside the clearing; the " free " allocation is also to be used to settle debts owed persons in Newfoundland, Burma and the Colonial Empire;[1] any remaining balance to this account, after the £40,000 deduction above, is to be transferred to Sterling Coal Sub-Account and Sterling Sub-Account " D " in the ratio of 46 : 41. Any sterling balance to Sterling Arrears Account " B ", which now disappears with the corresponding lire account, is to be transferred to this account.

(iv) 6½ per cent to Sterling Arrears Account " C " for the transfer of financial debts; priority of transfer continues to be given to certain remittances of a recurrent nature, *e.g.*, commission, interest, dividends, *etc.*

Any balances standing to the credit of the old Sterling New Account are to be transferred to Sterling Coal Sub-Account and Sterling Sub-Account " D " in the ratio of 46 : 41. Lire deposits in respect of outstanding trade debts falling under the Italian Ministerial Decree of November 20, 1935, are to be transferred through Sterling Arrears Account " A " at the fixed rate of 64.46 to the pound.

Under these amendments 87 per cent of the sterling arising from British imports from Italy is now allocated to current trade, while the 30 per cent formerly earmarked for commercial arrears and financial debts is reduced to 13½ per cent, which, " in actual practice... will be devoted to financial transfers and for sterling for the transportation and insurance of coal exported to Italy ".[2] The commercial agreement

[1] Lire deposited with the National Foreign Exchange Institute, for this purpose, to be converted into sterling at the rate of 64 46 to the pound.

[2] *Parliamentary Debates*, Commons, Volume 334, April 8, 1938, Col. 693. Parliamentary Secretary to the Board of Trade.

which accompanied the negotiations of the provisions above accordingly provided for some increase in British exports to Italy.[1] It was estimated, for example, that if the sterling receipts of the Clearing Office, which were £6,500,000 in 1937, amounted to £7,000,000 in 1938, British coal exports to the value of £3,250,000, or nearly £1,000,000 in excess of the 1937 figure would be possible.[2] However, at least as early as August 1938, the Board of Trade had to warn British exporters to Italy to exercise caution owing to the existence of transfer delays.[3] It may be observed that the re-exports from the United Kingdom to Italy have apparently been excluded from the terms of the agreement.

The rate of conversion of lire deposits into sterling remains the same; the rate of exchange for sterling on the Rome Bourse on the day advice of payment is sent to the Clearing Office. The Italian debtor is responsible for the full sterling amount due, or "where the debt is expressed to be payable in a currency other than sterling, the full sterling equivalent of his debt calculated at the rates ruling for such other currency and for sterling on the Rome Bourse on the day on which the Istituto sends to the Clearing Office the advice of payment in respect of the original deposit."

After the above arrangements had been in effect for some time, the clearing became unbalanced, " partly due to a decline which occurred ..... in the value of Italian goods imported into this country (the United Kingdom) and partly due to the fact that Italy's imports from the United Kingdom (excluding coal) were considerably in excess of the prescribed quotas for non-coal imports."[4] A new supplementary trade agreement was therefore signed which restricted British exports, generally speaking, to the provisions of the November 6, 1936, agreement.[5] The new quotas reduce the total value of imports of British goods from 258 million lire per year to 211 million lire. A further contraction is provided by the stipulation regarding the non-issue of licenses for the period January 1 to February 28, 1938.[6] The Board of Trade stated these modifications were necessary " to check the accumu-

[1] *Supra*, p. 59-60.
[2] *Parliamentary Debates*, *op cit.*, Col. 692.
[3] *Board of Trade Journal*, August 11, 1938, p 206
[4] *Board of Trade Journal*, March 16, 1939, p. 418. The overvaluation of official lire in terms of sterling must be considered in this connection
[5] *Ibid.*
[6] See *supra*, p. 60.

lation of arrears and gradually to shorten the present transfer delay" regarding Sub-Account "D".[1]

Turkey.

Turkey is also among the countries with which the United Kingdom has concluded clearing arrangements. The immediate reason for a clearing agreement with Turkey stemmed from Turkey's policy of bilateral balancing of payments which led to the denunciation, effective September 15, 1935, of the Anglo-Turkish treaty of commerce and navigation of 1930. This treaty, specifically applying the most-favoured-nation principle to quantitative trade controls, enabled the United Kingdom to secure, in spite of the active British bilateral balance of trade and payments, the treatment reserved for clearing countries, and countries with which Turkey had a "favourable" balance of trade.[2] A clearing agreement was, therefore, signed with Turkey in June, 1935, to forestall the inclusion of the United Kingdom in the category of countries receiving less favourable treatment.[3]

This early clearing arrangement was unilateral in nature, and provided that sums owed for imports of Turkish goods into the United Kingdom could be paid into a "Sterling Account" to be opened in a bank in the United Kingdom, designated by the Central Bank of Turkey. The Turkish Government undertook to pay, so far as was possible, sterling sums in this account which were remitted directly to the Turkish exporter instead of through the clearing machinery. Sterling paid into this account was to be allocated as to 30 per cent to Sub-Account "B", and as to 70 per cent to Sub-Account "A". The former was placed at the free disposal of the Central Bank of Turkey.

The allocations to Sub-Account "A" were to be employed to transfer the blocked Turkish debts deposited in Turkish pounds into a special account at the Central Bank of Turkey. These debts were in respect of outstanding trade debts and current British exports to Turkey.[4]

[1] *Op cit* British coal exports are not affected by these modifications in the preceding trade agreement

[2] See Department of Overseas Trade, *Report on Economic and Commercial Conditions in Turkey*, 1936, p. 1-2, 22; Hazim Atif Kuyucak, *Memorandum on Exchange Control in Turkey*, International Institute of Intellectual Co-operation, Paris, 1939, p. 47 (mimeographed document.)

[3] June 4, 1935, *Cmd. 4925.*

[4] Included in such debts were payments for certain goods which were landed in Turkey prior to May 15, 1935, but not cleared owing to absence or insufficiency of quota, which were now to be permitted to be imported without restriction, and payments for certain raw materials and foodstuffs exported to Turkey prior to February 15, 1935. Under the Protocol,

Any difference in the rate of exchange between the day of deposit and the day of transfer was to be debited or credited to the Turkish debtor, who was thus made responsible for the full sterling amount due. The Turkish Government was to arrange, moreover, to have creditors notify British debtors that payment into the Sterling Account discharged their liability.

While the rate of conversion does not appear to have been inserted into the text of the agreement, it was apparently based upon the official Turkish buying rate for French francs, to which the Turkish pound was linked at this time.[1]

The Fourth Schedule to the Agreement contained a list of Turkish goods which, with any United Kingdom products, could be the subject of private compensation. The condition attached to such transactions provided that the f.o.b. value of the United Kingdom exports was not to exceed 70 per cent of the f.o.b. value of the Turkish goods imported into the United Kingdom. The balance of 30 per cent was payable by the British debtors concerned in Sub-Account " B ", *i.e.*, at the free disposal of the Central Bank of Turkey.

The United Kingdom undertook to encourage the use of these clearings by trade interests in Britain. To this end the Board of Trade announced that by employing the above machinery " United Kingdom debtors will materially assist the prompt payment of debts due by Turkey for United Kingdom goods. In placing future orders in Turkey, United Kingdom importers are requested to contract for settlement through the Bank of England as above."[2] At the same time the following warning was issued :

> " The attention of exporters is specially drawn to the fact that the value of United Kingdom goods exported to Turkey has in recent years normally exceeded the value of Turkish goods imported into the United Kingdom. In future the sums (apart from the £50,000 mentioned above) available for payment for United Kingdom goods, including those at present held up in the Turkish Customs owing to insufficiency or absence of

additional exchange was to be made available for other imports into Turkey prior to the effective date of the Agreement, payments for which fell due after this date, and up to £50,000 for certain other exports before the date of entry into force, payment for which was due after this date

[1] *Board of Trade Journal*, June 20, 1935, p 977; Hazım Atıf Kuyucak, *op. cit.* p. 27.
[2] *Ibid*

> quotas, will be limited to seventy per cent of the sterling received into the Sterling Account in respect of Turkish goods imported into the United Kingdom "[1]

This arrangement failed to work to the satisfaction of the contracting Governments. By September, 1936, arrears had accumulated to the extent of about £1,000,000, with long delays being experienced by British exporters in receiving payments.[2] The Sterling Account had been receiving only a part of the sterling due to Turkey. Moreover, the situation was aggravated by the re-exports of Turkish products from third countries to the United Kingdom, payments for which, instead of being made into the Sterling Account were transferred directly to the intermediaries in such countries.[3] A two-way clearing, *i.e.*, compulsory also for British exporters, was therefore agreed upon in September, 1936.[4]

All Turkish trade debts due and owing on and after the effective date of the agreement were required to be paid in a "Special Account" set up at the Central Bank of Turkey.[5] These remained blocked until transferred through the "Clearing Account", established in the Anglo-Turkish Clearing Office, in the name of the Central Bank of Turkey, for the receipt of corresponding payments owed by British debtors to Turkey. The Turkish debtor was to be debited or credited with any difference in exchange rates between the date of deposit into the "Special Account" and the date of payment to the British creditor through the "Clearing Account."

Sums credited to the "Clearing Account" were to be allocated under the provisions of this agreement, except those arising on compensation account, as to 30 per cent to Sub-Account "B", at the free disposal of the Central Bank of Turkey, and as to 70 per cent to Sub-Account "A" for transfer from the blocked Turkish pounds in the "Special Account". Under the Protocol, the 70 per cent provision did not become operative until June 30th, 1937. Until this date, 65 per cent

[1] *Ibid*

[2] *Parliamentary Debates*, Commons, Volume 318, December 15, 1936, Col 2418. Statement by the Financial Secretary to the Treasury.

[3] Department of Overseas Trade, *op cit*, p 24 Germany was probably the leading country in this category, for this was one of the methods employed by the German Government to secure free foreign exchange

[4] September 2nd, 1936, *Cmd 5274, Statutory Rules and Orders, 1936, No 858, 1251.*

[5] Except certain goods imported prior to June 20, 1935, regarding which the régime in force prior to June 4, 1935, remained applicable See Department of Overseas Trade, *op cit*, pp 1-2.

was allocated to "A", and 5 per cent to Sub-Account "X" for the payment of debts, in respect of which deposits have been made into the Special Account in cases in which for special reasons the Turkish Government authorizes payment from Sub-Account "X" instead of Sub-Account "A".[1]

The Protocol also provided for the transfer to "A" of £50,000 for the final settlement of claims regarding sums paid directly to the Turkish creditor by the British debtor, between June 4, 1935, and March 20, 1936, otherwise than in accordance with the provisions of the agreement of June 4, 1935. In addition, 70 per cent of a sum equal to the foreign exchange collected by the Central Bank of Turkey since March 20, 1936 for British imports of Turkish goods, for which corresponding payments were not made into the old "Sterling Account" was to be paid into "A".

Articles 12 and 13 provide for private compensation transactions to facilitate payments. Any United Kingdom goods and Turkish goods specified in the Fourth Schedule could be used for this purpose.[2] The use of other Turkish goods for this purpose required the special approval of the contracting Governments. British re-exports could also be traded on compensation account as long as they did not originate in a country with which Turkey had a clearing or similar agreement, and did not exceed £75,000 per year for this purpose. Article 14 allows a British creditor in whose name a blocked deposit in the Special Account in Turkish pounds existed, to use part or all of this debt for the purchase of Turkish goods included in the Fourth Schedule.

The Sterling arising out of such compensation transactions is payable into the Clearing Account referred to above and was allocated therefrom under the terms of this agreement as follows: 70 per cent of the compensation sterling arising out of the transactions under Articles 12 and 13 went to Sub-Account "C", and was earmarked for the payment of goods imported into Turkey in execution of the same compensation transaction, while the remaining 30 per cent was allocated to "B" at the free disposal of the Bank of Turkey. Any balance in "C" was transferable to "B".

Of the sterling accruing from compensation transactions for the purpose of liquidating British debts under Article 14, 70 per cent went

[1] The "special reasons" are not given.

[2] Though considerably more extensive than the list in the preceding agreement, such specified items did not represent more than about 15 per cent of the United Kingdom's total imports from Turkey. Department of Overseas Trade, *op. cit.*, pp. 28-29.

to Sub-Account " D " to be utilized for payments to the British creditors concerned and 30 per cent allocated to " B ". Any balance in " D " was transferable to " A ", *i.e*, to transfer Turkish pounds blocked in the Special Account.[1]

The rate of conversion for transfers between the " Special Account " and the Clearing Account remained the official Turkish rate, but in September, 1936, upon the devaluation of the French franc, the Turkish pound was apparently placed at a level determined by the price of gold in London.[2] The rate at which compensation sterling became available to Turkish importers depended upon the relevant market forces within the clearing.

The Protocol excepted from the provisions of the clearing transactions between two private companies, one in Turkey and one in the United Kingdom, to be set up for the purpose of erecting an iron and steel plant in Turkey.[3] Products exported by each company to the other country, as agent of the other company, were excluded from the scope of the agreement. Moreover, the " gross proceeds of the sale of the Turkish metals, mineral ores, concentrates and timber exported by the Turkish company to order of the United Kingdom company to meet the demands of the metal markets *in the British Empire or in countries* which have no commercial treaty of any description with Turkey ", were to be placed to the credit of the United Kingdom company.[4] Such sterling was earmarked in part for the requirements of the two companies The six months' balance was to be distributed as to 20 per cent to the Clearing Account above; as to the remaining 80 per cent, or 100 per cent when deposits in the Turkish " Special Account " were being transferred without delay, 30 per cent was to be placed at the free disposal of the Bank of Turkey and 70 per cent was to be employed for purchases of the Turkish Government in the United Kingdom. Note should be particularly taken of the fact that free exchange from Turkish exports to other countries was allocated to United Kingdom requirements.[5]

As might be expected, the Board of Trade issued a number of warnings to British exporters regarding the size of blocked arrears

[1] Some details on the nature of Anglo-Turkish compensation are given below.

[2] Hazim Atif Kuyucak, *op. cit*, p. 27.

[3] By virtue of a preliminary agreement signed July 23, 1936, between the Turkish Ministry of National Economy and Sümer Bank, and Messrs. H A. Brassert and Company, Limited

[4] Italics mine.

[5] This will be more thoroughly considered in the succeeding section.

and the limited amount of sterling which would be available for the payment of new exports.[1] It may be observed, in this connection, that the trade provisions which accompanied the clearing agreement remained substantially the same.[2]

A supplementary trade and clearing agreement, modifying the above agreement, was signed on May 27, 1938.[3] Article 1 restricts the importation into Turkey of goods, the payment for which is to be made through the " Special Account ", for different classes up to but not in excess of the c.i.f. quarterly value quotas specified in the appended schedule. Imports in excess of these stipulated values are possible only by way of compensation.[4] Article 3 deletes fresh fruits and vegetables, and wheat from the Fourth Schedule comprising Turkish compensation products.

The fourth Article appears to exclude generally from the operation of the clearing an important segment of the trade. *Inter alia*, debts in respect of United Kingdom goods exported in fulfilment of the contract between the two private companies for the erection of an iron and steel plant in Turkey, contracts falling under the British export credit guarantee of £10,000,000, contracts under the Armaments Credit Agreement, and the operations of the Anglo-Turkish Commodities Limited, are placed outside the scope of the agreement.[5] These are of considerable interest to this study and will be discussed in some detail in the succeeding chapter, dealing with the establishment of special trade organizations to facilitate bilateral trade and payments.

Sterling sums paid into the Clearing Account, with certain exceptions, continue to be allocated as provided in the principal agreement, *i.e.*, 70 per cent to " A " and 30 per cent to " B ". United Kingdom exports in compensation transactions are limited under the supplementary agreement to 60 per cent of the f.o.b. value of the Turkish goods imported into the United Kingdom. Article 14, respecting the use of compensation for the liquidation of Turkish debts,

[1] *Board of Trade Journal*, September 11, 1936, p 407, September 17, p 399, September 24, p. 452, Anglo-Turkish Clearing Office, *Memorandum*, September 12, 1936.

[2] See *supra*, p 61

[3] *Cmd 5756*, *Statutory Rules and Orders*, *1938*, *No. 580*.

[4] See *Board of Trade Journal*, June 2, 1938, p. 764

[5] These latter two agreements were negotiated simultaneously with the supplementary clearing agreement *Cmd. 5754* and *5755* respectively

Under Article 2 all Turkish currency required to be purchased in connection with contracts falling under the Export Credit Guarantee Agreement must be secured by paying sterling into the " Clearing Account ". This undertaking is suspended if there are no " abnormal delays " in transfers from the " Special Account ".

is also modified in that 60 per cent, instead of 70 per cent, of the value of Turkish goods exported for this purpose is earmarked for payment to British creditors employing such facilities. Moreover, such facilities may now be used for the liquidation of any debt awaiting transfer from the "Special Account".[1] The full allocation of compensation sterling in both cases provides for 60 per cent in execution of the compensation transaction,[2] 10 per cent to Sub-Account "A" for the transfer of Turkish debts blocked in the "Special Account" set up under the principal agreement, and 30 per cent in free foreign exchange placed at the disposal of the Central Bank of Turkey. Unutilized balances with regard to the 60 per cent allocations are also to be transferred to Sub-Account "A".

The significance of the new allocations to "A", or for transfers from the "Special Account", must be drawn from the very great delay which there has been in the transfer of blocked Turkish deposits in the "Special Account" to British creditors through the "Clearing Account".

It should be observed that compensation transactions are considered essentially a method of facilitating a flow of bilateral trade which otherwise could take place, if at all, only subject to very great delays in the transfer of payments. They are made possible through pre-arranged double matching of imports and exports initiated in Turkey. The incentive to exporters to use such facilities lies in the premium at which the Turkish exporter can dispose of this compensation sterling to Turkish importers, thus encouraging the export of the products included in the compensation schedule.[3] The Turkish importer, in turn, passes on to the British exporter at least a part of the premium, since the latter is quite anxious to find a market for his goods. Since the compensation articles are products which are not ordinarily exported to the United Kingdom, because of prices or other factors, this type of trade is encouraged by the Turkish Government.

De-blocking transactions, *i.e.*, employment of compensation to transfer debts paid into the "Special Account", fall into a somewhat

[1] Under the previous arrangements such facilities were available only regarding debts deposited in the "Special Account" prior to the effective date of the agreement

[2] Any balance representing the difference between the c.i.f and f o b. values is placed in Sub-Account "B", i.e, at the free disposal of the Central Bank of Turkey

[3] For further details see Board of Trade, *Anglo-Turkish Trade and Clearing Agreement: Procedure Relating to Private Compensation Transactions*, August 3, 1938, (mimeographed); Department of Overseas Trade, *op cit.*, pp. 26-29

different category, since such exports from Turkey are to be " treated as exports made in the normal way ".[1] In order to liquidate a debt here, it is necessary, owing to the allocation of sterling provided (60, 30 and 10 per cent), to provide for imports in greater volume than the amount of the debt.

Compensation now forms an important element in the bilateral trade relations particularly in view of the fact that transfers from the " Special Account " to British creditors are now several years behind. For example, only deposits into the " Special Account " of the Central Bank of Turkey, on November 12, 1936, were transferred to British creditors by April 29, 1939, — a delay of almost two and one-half years.[2]

Sterling balances of the Anglo-Turkish Commodities Limited, after all the specified requirements in Article 4 (iv) of the supplementary agreement have been met, may be transferred at the end of twelve months periods to the " Clearing Account " and allocated as to 60 per cent to " A ", as to 30 per cent to " B ", and as to 10 per cent at the free disposal of the Central Bank of Turkey but earmarked, so far as required, for the payment of British newspapers, periodicals and books which are not suitable for purchase through the clearing or by private compensation.

Payments for imports of figs and raisins into the United Kingdom are handled apart from other products, and are allocated to a Sub-Account " E ", from which transfers are made from day to day to " A " as to 70 per cent, with 30 per cent of such sterling being placed at the disposal of the Central Bank of Turkey. However, the maximum amount of such sterling payable into the Clearing Account for allocation as above is fixed at £322,000. Sterling proceeds in excess of this are transferred to the Anglo-Turkish Commodities Limited.[3]

It is important to note that the provision for quarterly value quotas in this agreement constitutes a re-imposition, at the request of the British Government, of quantitative restrictions upon British exports. In July 1937, the Turkish Government abolished all quota restrictions as regards imports from countries with which Turkey has a marginal clearing agreement providing a balance of at least 20 per cent in favour

[1] Board of Trade, *op. cit.*, p 3

[2] *Board of Trade Journal*, May 4, 1939, p 662. On April 29, 1939, approximately £1,834,000 in deposits was awaiting transfer.

[3] The proportion (70 per cent) of the £322,000 earmarked for " A ", *i e*, for transfer from the " Special Account ", of the Central Bank of Turkey, amounts to £225,000, which represents the amount which would have accrued to " A " on the basis of average imports into the United Kingdom during the three years 1935-37 *Agreed Minute.*

of Turkey.[1] Since the previous agreement guaranteed Britain the full benefits of the general import régime in force, this decree had freed British exports from all quantitative restrictions. Thus, Britain, in effect, asked for discriminatory treatment to facilitate debt collection.

It should be observed in passing that the Turkish clearing arrangements differ structurally from the more orthodox Italian agreements in that a margin of free sterling is placed at the disposal of the Central Bank of Turkey, not an uncommon provision, and in the provision for compensation transactions. Structurally, the Rumanian clearing, currently in operation, to which the discussion now turns, is to be distinguished from the Turkish clearing in that compensation has been extended to practically all kinds of goods, with the consequent freeing from the official rate of exchange of a large proportion of the bilateral payments within the clearing framework.

Rumania.

The fourth country with which clearing agreements have been concluded by the British Government is Rumania. In the agreement of May, 1936, elaborated upon by the supplementary agreements of May 28, and May 30, 1936, detailed arrangements regarding payments between the two countries were provided for.[2] All debts due for imports into the United Kingdom after June 10, 1936, and all debts due and owing on that date had to be paid into the " Special Account " set up in the name of the Anglo-Rumanian Clearing Office at the Bank of England. Sterling arising out of compensation transactions, payable into a Compensation Transactions Account, and 50 per cent of the proceeds of Rumanian oil exports, with some qualification, were excepted from this provision. The amounts paid into the Special Account were to be distributed among the following Sub-Accounts :

(i) 35 per cent to Sub-Account " A " for the financial requirements in the United Kingdom of the Government of Rumania and the Rumanian Monopolies Institute, (less £2,500 a month placed at the free disposal of the National Bank of Rumania).

(ii) 5 per cent to Sub-Account " B ", up to a maximum of £50,000 per year, for outstanding short-term banking credits and bank debts.

[1] Hazim Atif Kuyucak, *op cit.*, pp 40-41.

[2] *Cmd. 5587* and *5187* respectively. The Anglo-Rumanian Clearing Office was set up by *Statutory Rules and Orders 5936, No. 427.*

(iii) 5 per cent to Sub-Account "C" for interest, dividends, and profits, rent, insurance and reinsurance, royalties, fees, commission, outstanding freight charges and payments due under the Manchester Agreement of 1923.

(iv) 5 per cent to the "Current Account" of the National Bank of Rumania at the Bank of England (free disposal).

(v) 5 per cent to Sub-Account "D" for the payment of outstanding trade debts, together with such additional sums necessary to provide the specified instalments; also the necessary interest and amortization accruing from investments made in Rumania to settle outstanding trade debts, the amount of outstanding debts settled by special exports and investment in Rumania (not more than £75,000 in one year) during each month were to be deducted from the additional sums above.

(vi) 75 per cent of the balance remaining to the credit of the Special Account, after the above transfers have been made, to Sub-Account "E" for current trade debts.

(vii) The remaining balance to Sub-Account "F" for the purchases of United Kingdom goods on the part of the Rumanian Government.

The proceeds of compensation exports from Rumania for payment in part or whole of United Kingdom exports, or for settling outstanding debts, were to be paid, to the extent required under the existing arrangements, into a Compensation Account, opened at the Bank of England in the name of the Anglo-Rumanian Clearing Office.[1] These sums were to be allocated to the Sub-Accounts above in the following proportions : 20 per cent to "A"; 5 per cent to "B" until the £50,000 referred to is reached, then to "C"; 50 per cent to "F", provided that, upon notification by the Rumanian National Bank, all or any part of this percentage may be allocated to "A", "B" or "C"; and 25 per cent to the Current Account of the National Bank of Rumania. Compensation under these terms was provided for a list of specified products only, any other products requiring the approval of the United Kingdom in each case.

The Rumanian Government undertook to liquidate old debts to the extent of £400,000 by June, 1937, under the provisions of (v) above.[2] In addition, Rumania was to pay £100,000 (subject to certain

[1] Compensation permits issued before May 2, 1936, providing that they be used for a specific purpose could be used for that purpose.

[2] Outstanding trade debts were defined as debts falling due before August 1, 1935. These sums were payable into "D".

deductions) in liquidation of their obligations under the August, 1935, Agreement, and complete the payment of exchange derived from the export of cereals, also provided for in the 1935 Agreement.[1] Outstanding trade debts due before March 1, 1935, were given priority of transfer over other outstanding trade debts. Article 6 of the May 2, 1936, arrangement also obliged Rumania to grant facilities for the special exportation of goods, either to the United Kingdom or to countries with which Rumania has no payments agreement, to provide sterling for the liquidation of outstanding trade debts due persons in the United Kingdom.

The rate of conversion between the pound and Rumanian lei was, with the exception of compensation trade, the official rate plus a premium, (38 per cent in practice). For compensation the rate was left to the play of supply of and demand for "compensation" pounds within the framework of the clearing.

In June 1936, the Board of Trade advised traders to exercise caution with regard to the acceptance of new business, pointing to the limited amount of sterling available under the clearing for United Kingdom exports.[2]

The high level of imports into the United Kingdom from Rumania during the year following the agreement permitted the liquidation of a great part of the outstanding trade debts, arrears due on Rumanian loans, and "good progress" was made regarding the transfer of payments in respect of the remaining financial debts due to British creditors.[3] It was also necessary at this time to calculate the volume of outstanding trade debts to be settled after June 9, 1937. An amending agreement was, therefore, signed in May 1937, altering the proportions between the sterling allocation to the different classes of debts[4]: "Owing to the large amount of sterling available, it was possible, *without prejudice to other creditors*, to provide for a substantial increase of the amount of United Kingdom export trade, and to increase the amount of free sterling at the disposal of the National Bank of Rumania."[5]

[1] See *supra*, p. 92

[2] *Board of Trade Journal*, June 11, 1936, p 851

[3] *Parliamentary Debates*, Commons, Volume 334, April 8, 1938, Col 709. Parliamentary Secretary to the Board of Trade. See also Department of Overseas Trade, *Report on Economic and Commercial Conditions in Rumania*, May, 1937, p. 28

[4] May 27, 1937, *Cmd 5471*.

[5] *Parliamentary Debates*, *op. cit.* Italics mine

This supplementary agreement provided for the allocation of additional sterling to trade payments from the anticipated surpluses accruing out of the provision (35 per cent) regarding the financial requirements of the Rumanian Government and Monopolies Institute. For outstanding debts, £400,000 per year was to be set aside at the monthly rate of £33,333, with no deduction for outstanding debts settled otherwise than through the clearing. The limit of £50,000 for outstanding short-term banking credits and bank debts was raised to £100,000. The amount of sterling at the free disposal of the National Bank of Rumania was increased from 5 per cent to 10 per cent, with provision for additional sums from expected surpluses on the undertaking regarding Rumanian Government debts. Surpluses on the Oil Account, set up as a reserve of sterling for the needs of oil companies in the United Kingdom, were to be automatically transferred to the clearing at the end of each quarter.

The compensation arrangements were modified to the extent that sterling arising out of such transactions was to be devoted entirely to payments for goods. The percentage of sterling to be surrendered for the compensation articles set out in the Annex to the agreement was to be paid into a newly-established "General Trade Account". This was to be used for payments in respect of any goods imported into Rumania as long as the debt arising out of such imports was due to a person in the United Kingdom. The remainder of the sterling accruing from such operations was payable into the "Compensation Transactions Account", also a new account.[1] Of the sums credited to this account, 50 per cent was to be employed for goods grown, produced or manufactured in the United Kingdom. The remaining 50 per cent might be used to pay for any goods imported into Rumania, provided the debt resulting from such imports was due to a person in the United Kingdom.

With a danger of fresh arrears accumulating, owing to a considerable decline in Rumanian exports to the United Kingdom, the Rumanian Government agreed in February, 1938 to transfer from its free exchange resources to the various sub-accounts, supplementary sums to enable requirements to be met, subject to repayment to the National Bank of

[1] Provision was made for recording in separate sub-accounts the names of the persons or banks in Rumania nominated at the time of payment as the beneficiaries with regard to the corresponding payments to the Bank of England Payments from this account could be made at "the sole request of such persons or banks in Rumania or of their nominees, to the extent of the amounts standing to the credit of their respective sub-accounts."

Rumania, from the sub-accounts concerned, when it and the Clearing Office considered that an available surplus existed in that sub-account.[1]

The arrangements provided for above were superseded by a completely new agreement, signed on September 2, 1938.[2] The motivating force for the new agreement lay in the heavy decline in Rumanian exports to the United Kingdom, with the consequence that a growing tendency developed for receipts to fall short of liabilities under the previous clearing arrangements.[3] Essentially, therefore, the new agreement was directed towards "stimulating exports from Rumania to the United Kingdom, and so making available an increased amount of sterling for financial payments and for the payment of United Kingdom exports to Rumania."[4]

As under the previous arrangements, debts due for the price of imports grown, produced or manufactured in Rumania have to be paid to the Bank of England for the account of the Anglo-Rumanian Clearing Office. This is, with the exception of certain provisions regarding debts due on oil imports into Britain and compensation sterling, to be allocated as follows :

(i) 20 per cent to "General United Kingdom Account" to the credit of the Rumanian exporter and available for *any* payments by persons in Rumania to persons in the United Kingdom, *e.g.*, debts due in respect of imports of any goods into Rumania, payment of interest, dividends and profits, rents, insurance, etc.

(ii) 40 per cent to "United Kingdom Goods Account" also placed to the credit of the Rumanian exporter, and available only for payments of exports to Rumania, which are grown, produced or manufactured in the United Kingdom

(iii) 40 per cent to the "Special Account" to be distributed in turn among the following sub-accounts :

(*a*) To Sub-Account "A" £150,000 for September 1938, £62,000 in each month thereafter until March 31, 1939, and £80,000 thereafter, this is to be used for financial requirements in the United Kingdom of the Rumanian Government and Monopolies Institute

[1] February 25th, 1938, *Cmd 5718* Repayment from the sub-accounts necessitated an additional Order from the Treasury *Statutory Rules and Orders, 1938, No 235.*

[2] *Cmd 5840, Statutory Rules and Orders, 1938, No. 908*

[3] *The Times*, November 15, 1938.

[4] Board of Trade, *Board of Trade Journal*, September 8, 1938, p 351.

(*b*) To Sub-Accounts "B", "D" and "F" £70,000 a month in the proportions of 12, 55 and 33 per cent respectively, the purposes of these accounts are .

(1) "B" for outstanding short-term banking credits and bank debts.

(2) "D" for outstanding trade debts (before August[1], 1935) first, then for any debts due in respect of United Kingdom goods imported into Rumania prior to the entry into force of the present agreement.

(3) "F" for the purchase of United Kingdom goods on the part of the Rumanian Government

The National Bank of Rumania may make advances to any of the Sub-Accounts of the Special Account repayable when an available surplus exists in the account concerned, but subject to the condition that sums in excess of £250,000 accruing to the free disposal of the National Bank are to be regarded as repayments.

With respect to debts due to any Rumanian Oil Company for imports of oil into the United Kingdom, 50 per cent is to be paid into the Special Account above, (or by agreement a higher proportion); 30 per cent to a Repayments Account, to be repaid direct to a person in the United Kingdom; and any balance remaining to the Oil Account for payments necessary to meet the sterling requirements for payments to be made in the United Kingdom. Payments in excess of 25 per cent of the payments into the Oil Account in the preceding quarterly period are to be paid into the Special Account.

The compensation arrangements provided in the preceding agreement remain unchanged, with the exception that the "General Trade Account", set up to receive the sterling surrendered to the National Bank of Rumania, disappears. This sterling is now placed at the free disposal of the National Bank of Rumania. The Compensation Transactions Account to receive other compensation sterling remains subject to the same condition that 50 per cent be employed for goods grown, produced or manufactured in the United Kingdom, and 50 percent for any other goods imported into Rumania provided the debt is owed to a person in the United Kingdom.[1]

[1] Certain modifications were also made in the Annex regarding the specified goods which may be exported to the United Kingdom in compensation without the specific approval of the two Governments

As before, the Rumanian Government undertakes to issue the import licences required to exhaust the sterling made available under the terms of the agreement. The administration of these licences is not to be such as " to vary to a substantial extent between different classes of imports of United Kingdom goods the relative proportion in which these classes of goods were imported into Rumania, in the years 1933-35."[1]

The rate of conversion for payments falling within the Special Account remains the official rate plus the premium. In the case of outstanding trade debts, *i.e.*, due before August 1, 1935, this premium is not to exceed 38 per cent.

But the principal difference between the two agreements, and the *raison d'être* of the new arrangements, rests in the provisions made with regard to sterling arising out of items in the " General United Kingdom Account ", and the United Kingdom " Goods Account ". In these instances, sterling for payments to the United Kingdom is now to be available, not at the official *cum* premium rate, but at a rate determined by the supply of and demand for such sterling within the framework of the clearing. The Rumanian holder of sterling may thus sell 20 per cent of the sterling accruing from his exports to pay any debt due in the United Kingdom, and 40 per cent of such sterling for the payment of United Kingdom goods at " rates of exchange determined by supply and demand in an open market ".[2] The remaining 40 per cent (50 per cent for oil) must continue to be sold by the Rumanian exporter at the official *cum* premium rate.

Under the new provisions, the Rumanian debtor purchases his sterling requirements from a holder of sterling in a Special Sub-Account set up in his name at the Anglo-Rumanian Clearing Office. Payment is then made to the British creditor at the request of the Rumanian Bank or other person holding the sterling credit in the United Kingdom.

It will be observed that the compensation sterling provisions already provided for in the previous agreement were of the same nature. They do not provide for the direct exchange of goods but are essentially a source of sterling for United Kingdom requirements stimulated by a more favorable, for the Rumanian exporter, market relation-

[1] Article 12.
[2] *The Times*, November 15, 1938 It was for the purpose of providing the arrangements discussed in this paragraph that the structure of the clearing was altered as set forth above.

ship between the pound and lei than the official *cum* premium rate provided.[1]

The compensation provisions together with the new provisions stated above constitute a large measure of relaxation of the clearing mechanism, freeing in some degree the exchange rate for all classes of goods, and therefore differ markedly from the rigidity of the Anglo-Italian clearing arrangements. In this way, the British Government hoped to stimulate exports from Rumania to the United Kingdom for the lei rate to the pound fixed by supply and demand, within the clearing, has consistently been higher than the official *cum* premium rate.[2] It can also be viewed as an attempt towards readjusting the over-valuation of the lei in terms of sterling.

The anticipated effects of these new provisions was realized to such a degree that the United Kingdom has become a debtor on clearing account. A sizeable sterling balance, to the credit of the Rumanian Bank, on non-compensation exports alone, has accumulated in recent months. To meet this situation, in part, a Protocol to the agreement was signed on May 11, 1939.[3] This agreement provided measures for the increase of British exports to Rumania, which will be discussed in the succeeding section to this study. It is relevant here to note that one provision condemns clearing arrangements in the following terms :

> " The two Governments recognize that it is in their common interest to develop the commercial exchanges between the two countries on a sound economic basis and, so far as possible, through the normal commercial channels.
>
> * * *
>
> The present exchange conditions render difficult the sale in Rumania of certain classes of United Kingdom manufactures, and a clearing system inevitably impedes the normal functioning of trade credits. It is the common aim of the two Governments to work towards a freer system as and when possible, and, in the meanwhile, they have agreed to make certain alterations in the provisions and working of the agreement of the 2nd of September, 1938, on the lines proposed in Annex II."

[1] For some details of the actual mechanism see Anglo-Rumanian Clearing Office, *Rumanian Memorandum No 2*, October 1938, and Articles 11 and 12 of the agreement proper.

[2] Nonetheless exporters to Rumania were warned regarding the limited amount of sterling available. *Ibid.*

[3] *Cmd. 6018.*

Annex II starts off with the remarkable statement that "the rates of exchange between the lei and sterling should be such as to attract exports to the United Kingdom, without making the cost of United Kingdom goods too high for the Rumanian market". To lessen the wide fluctuation in the sterling allotted to the various blocked accounts under the "General United Kingdom Account" and the "United Kingdom Goods Account", which is negotiated at market rates within the framework of the clearing, provision is made that such sterling is to be used as rapidly as possible. Time limits have accordingly been placed upon the utilization of exchange permits to curb speculation and to prevent the holding of sterling for purposes other than those connected with commercial transactions. Should these arrangements fail to result in the desired development of trade, the percentage allocated to the three general accounts, (*i.e.*, the above and the Special Account), may be altered.

Provision is also made for the establishment of forward exchange facilities in Rumania for the purposes of enabling traders to rely upon the rate of exchange when concluding commercial contracts. Regarding trade credits, transfer of advance payments may be made by United Kingdom importers under contracts to import Rumanian goods. Five per cent is added to the percentages of the sterling proceeds of compensation transactions placed at the free disposal of the National Bank of Rumania. Finally, sums credited to the Repayments Account, (oil), referred to above, may be utilized for specified current expenses of the companies concerned in the United Kingdom and any other free foreign exchange country.

Recently, it has been found necessary, owing in part to the provisions of the above Protocol, to modify somewhat the structure of the Anglo-Rumanian clearing.[1] A Miscellaneous Account has been established for the transfer, at the official *cum* premium rate, of ship passenger fares and insurance premiums due British creditors.[2] The other significant changes consist of provision for advance payments for British imports from Rumania; provision for an increased allocation to Sub-Account "D" to hasten the transfer of Rumanian trade debts at the official rate plus a premium of 38 per cent; and an alteration in the Compensation Transactions Account permitting

[1] July 12, 1939, *Cmd. 6063.*

[2] Insurance interests in Britain had been complaining of this omission in previous agreements which they regarded as discriminatory. *The Times*, May 24, 1939.

70 per cent, instead of the previous 50 per cent, to be used for the purchase of British re-exports (subject to an undertaking to expend this 70 per cent, as far as possible, upon Empire produce). With the exception of these relatively minor changes, the clearing structure remains substantially the same.

Some conclusions.

The analysis offered above regarding Britain's clearing agreement, supports the observations made in the preceding section relating to payments agreements. Current trade has been subordinated to the collection of trade arrears and financial payments. Further, the principle underlying the provisions respecting current trade is based upon the thesis that a smaller volume of trade is preferable to a larger volume combined with delays in payments to British exports. There has been no explicit recognition of the wider forces which cause such delays. Instead, attention has been closely focussed only upon the bilateral payments in question. It is true that the clearings have been principally a technical medium to permit the transfer of payments, in contrast to German clearings which have been more aggressively employed, but it is equally true that the flow of bilateral trade has been regulated and moulded to enable the clearings to work in the desired fashion. For this reason British clearings must be considered as an integral part of British foreign trade policy, distinguished from external policy regarding international payments.

Where necessary for the realization of the purposes of the clearing, British exports have been greatly and consciously restricted. This has been accomplished both by repeated official warnings to exporters, and by the actual negotiation and acceptance of restricted quotas for British goods. The latest agreements [1] with Italy and Turkey provide striking examples of the latter method. In both these instances, the British Government itself appears to have requested the imposition of greater restrictions upon British exports to the country concerned. In the case of Turkey, the restrictions imposed have not been stringent enough to prevent the clearing accounts from becoming unbalanced. This has taken the form of a large accumulation of frozen deposits awaiting transfer to British creditors through the clearing mechanism.

As a corollary to this endeavour to restrict exports, an expansion of

[1] As of July 1, 1939.

imports into Britain from the clearing countries has also been sought where debt collection upon a bilateral basis, both as regards arrears and financial payments, has made this necessary. This was the purpose of the Anglo-Rumanian agreement of September 1938 which greatly extended the scope of compensation transactions within the framework of the clearing This was also the purpose of the grain undertakings of the Rumanian agreements, which could only be realized through subsidies by the Rumanian Government.

The rates of conversion established in the agreements with Italy, Turkey, and Rumania have led to real difficulties, as they must from the very nature of the circumstances in which clearings are arranged. In all three cases, the official rate has over-valued the foreign currency concerned in relation to the pound. An examination of the discounts on the various classes of lire in free markets, and the compensation rates for sterling in both Turkey and Rumania, give clear evidence of the under-valuation of the pound provided by the official sterling prices of these currencies.[1] The tendency of this over-valuation to encourage imports from the United Kingdom and discourage exports from these countries to Great Britain, has threatened the functioning of the clearing, since it leads to an unbalancing of the bilateral accounts.

The Turkish clearing has actually become weighted down with a large accumulation of Turkish debts blocked in the " Special Account ", payment of which is almost two and one-half years behind. Only the rigid restriction of British exports, the chief purpose of the March 1939 agreement, has prevented the Italian arrangements from falling into the same condition.[2] The new state of the Anglo-Rumanian clearing, making the United Kingdom a debtor on clearing account, is to be attributed primarily to the freeing of a large proportion of the bilateral payments from the official *cum* premium rate.[3] This shift in the status of the clearing account is also an illustration of how the qualitative character of international trade deteriorates under clearing arrangements. It is in some measure because the difficulties of finding a satisfactory rate of conversion that the British Government has found it necessary to restrict exports and to encourage imports in respect of clearing countries.

[1] See *The Economist*, May 6, 1939, pp. 317-318, and May 13, 1939, pp. 374-375 These articles appear to miss the basic difficulty involved in the determination of a suitable rate of conversion

[2] *Board of Trade Journal*, March 16, 1939, pp. 418-419.

[3] The present position, interestingly enough, appears to involve an undervalued lei, with the result that British exports are retarded, and clearing balances accumulated.

Thus the rate of conversion becomes a powerful element in the regulation of bilateral payments. There is real question whether a rate can be secured which will give an equilibrium in terms of the bilateral balance of payments or in the relation between the internal and external purchasing power (in the free exchange country) of the currency.[1] If the internal economic structure of the country concerned, in relation to the economic structure of the other country, and its external payments could be completely " bilateralized ", and if payments within the clearing framework were entirely free, it is conceivable that such an equilibrium rate might be realized. In this event, quite unlikely under existing conditions, there would be no need for clearing arrangements as such and the question ot bilateral relations would assume a different character.

In the absence of these structural adjustments any rate fixed arbitrarily, as such rates must be, can hardly approach the purchasing power parity of a currency, *e g.*, in terms of wholesale prices, which after all is the *desideratum* if both an over-valuation or an under-valuation are to be avoided. With only one set of bilateral payments employed as the data it cannot, in the circumstances, properly represent the relations between the two price structures concerned, the character of which will be affected by forces broader in scope than the bilateral relations in question.

Moreover, the difficulties are enhanced by the fact that Britain's clearings are directed in an important measure towards the transfer of financial payments and other payments on a bilateral basis. A rate which might conceivably perhaps for a short while balance trade bilaterally to the satisfaction of both parties, *ceteris paribus*, would not necessarily be the rate which would permit trade arrears and financial payments to be transferred. In the latter case an excess of merchandise imports would be desired which, in the absence of a multilateral system, might require an over-valuation of sterling in terms of the exchange control currency. The alternative to an over-valuation might be an under-valued pound sterling, or over-valued foreign currency unit, but in this case British exports would have to be vigorously restricted

[1] Both these conditions would be realized if an equilibrium rate were found, since the existence of each would appear to imply the presence of the other in the circumstances under discussion It is to be observed that the very existence of exchange control, in the sense employed in this study, implies the absence of equilibrium rates of exchange, and at least a partial destruction of the international price structure which is, after all, basic to the concept of an equilibrium of purchasing powers

if the clearing is not to become seriously unbalanced.[1] Further, in this case, the over-valuation of the foreign currency unit would mean, *ceteris paribus*, a diversion of exports to other countries, whose currency is also over-valued in relation to sterling.

When prices in the exchange control country become linked to the price systems of other countries whose own price structure is isolated from world prices, the clearing mechanism has an even more difficult time. The magnetic pull of exports to Germany, for example, through agricultural prices stabilized at levels completely out of line with world prices, affords an additional obstacle to the operation of a British clearing with such a country in a manner satisfactory to the contracting parties. This is particularly true where an excess of imports into Britain is desired sufficient to transfer financial payments and liquidate blocked balances. In cases where this situation does not exist, either bilateral trade must be reduced severely, or else blocked trade debts must inevitably result, assuming no subsidizing methods, such as Rumania has resorted to, are employed. British clearings, of course, fall into the former category. The problem of searching for a suitable rate of conversion in both cases is clearly an insuperable one.

In any event, it is clear that the integration of trade and payments by means of clearing agreements cannot, even in the narrow sense, be said to have been successful so far as Britain is concerned. Financial interests have, of course, benefited for current imports into Britain have been earmarked for their requirements. Fluctuations about a consciously chosen type of equilibrium in the form of an equivalence in bilateral payments has in itself led to a dislocation of trade and the prevention of shifts in trade which, in the absence of a bilateral system, the economic forces of the market might be expected to bring about.

In the broader sense, it is very doubtful, to say the least, whether the narrow gains to certain interests through the clearings have not been more than offset by the destructive nature of such arrangements to the multilateral system of trade and payments into which the British economy had woven itself, with such great benefit to the national dividend.[2] More immediately, British trade relations with the clearing

[1] Of course, if exports, imports, or both are rigidly controlled, a clearing can be said to work satisfactorily in that the accounts do not become unbalanced because of an under-valuation or over-valuation. The case considered above refers to an attempt to avoid a disequilibrium regarding the valuation of a currency in the establishment of a rate of conversion

[2] This is to say nothing of the wide cumbersome and tortuous administrative regulation of the activities of international traders which becomes necessary under clearing arrangements.

countries have acquired a spasmodic character with resulting violent fluctuations unless, as in the case of Italy, bilateral trade is ruthlessly checked. This qualitative deterioration of international trade has been characteristic of the trade relations between exchange control countries, which is largely conducted upon a clearing basis.

It should be pointed out in passing that the British Government has on numerous occasions condemned, at least officially, clearing agreements and has viewed them as a *pis aller*.[1]

[1] *e.g.*, *Parliamentary Debates*, Commons, Volume 307, December 12, 1935, p. 1187; Volume 318, December 15, 1936, Col. 2419 · Volume 328, November 8, 1937, Col. 1484; "Protocol between the United Kingdom and the Rumanian Government" regarding Commercial and Economic Relations with Rumania, May 11, 1939, *Cmd. 6018*.

CHAPTER XI

SPECIAL TRADE FACILITIES AND GOVERNMENT PURCHASES

JOINT TRADING ORGANIZATIONS.

An additional element in British trade relations with countries closely regulating their external trade has been the institution of joint trading organizations. The character and operations of these organizations contain aspects of considerable significance to this study.

It will be recalled that among the provisions of the trade and clearing agreement signed with Turkey on September 2, 1936, was one which excluded from the clearing framework transactions of two private companies, one in Turkey and the other in the United Kingdom (under H. A. Brassert and Company), established to build an iron and steel plant in Turkey. It was further provided that the gross sterling proceeds of exports of metals, mineral ores, concentrates and timber by the Turkish company to the order of the British company to metal markets in the British Empire or in countries with no commercial treaties whatever with Turkey were to be credited to the British company. These funds were to be employed to meet the administrative and overhead expenses of the two companies and for payments to H. A. Brassert and Company, the British company.[1] The Anglo-Turkish Comptoir Limited was set up, under an agreement between the British Government and the Turkish Ministry of National Economy, in September 1936, to carry out these provisions regarding Turkish exports.

The clear meaning of these arrangements was that the proceeds of Turkish exports to other countries were to be used to finance exports of British products to Turkey and, perhaps, liquidate some part of the blocked deposits in the "Special Account" awaiting transfer to British creditors.[2]

In May 1938, these arrangements became part of a much larger scheme under the Armament Credit Agreement, the Export Credits

[1] Any six months balance was in part transferable to the "Clearing Account", and in part was allocated to Turkish Government purchases in the United Kingdom and for the free disposal of the Central Bank of Turkey

[2] *Ibid.* See the informative article by F. H. Nixon, the General Manager of the British Export Credits Guarantee Department which guaranteed £3,000,000 worth of bills for this project "The Export Credits Guarantee Department", *The Banker*, February, 1939.

Guarantee Agreement, and the provisions of the supplementary trade and clearing agreement.[1] The supplementary agreement excepted from the operation of the clearing Turkish debts accruing from the contract for the erection of the iron and steel plant in Turkey by H. A. Brassert and Company, any contracts within the scope of the credit guarantee facilities, and contracts for exports under the Armaments Credit Guarantee Agreement.[2] Conversely, the sterling proceeds of Turkish exports to the United Kingdom of metals, mineral ores and concentrates, coal, wheat, timber, fresh fruit and vegetables (other than nuts used as fruit), canned foods, and other commodities which might be added from time to time, become payable not into the "Clearing Account" but to the Anglo-Turkish Comptoir Limited and its anticipated successor the Anglo-Turkish Commodities Limited. The latter organizations receive in addition sterling proceeds of British imports of figs and raisins from Turkey in excess of £322,000.[3] The supplementary agreement then specifies the purposes for which the receipts of these companies are to be used. These are presented below.

The Export Credit Guarantee Agreement sets up the Anglo-Turkish Commodities Limited as a joint Government organization "for the sale in the British Empire and in all foreign countries" of the Turkish products enumerated above. These are classified into "the principal commodities" which include metals, mineral ores and concentrates of coal, and "the secondary commodities" comprising the remainder of the products above. Reference is then made to the programme drawn up by the Turkish Government for the export of metals, mineral ores and certain other products from 1940 onwards "to the British Empire and against foreign exchange freely convertible into sterling to foreign countries for the purpose of meeting its obligations under this Agreement". Further, exports during 1938 and 1939 and thereafter of the principal commodities to meet these obligations are given a priority over all other demands for exports.

Should the sterling proceeds of the sale of principal and secondary commodities through the Anglo-Turkish Commodities Limited prove insufficient for the purpose, additional allocations are to be made to this organization by the Turkish Government. In this event the proceeds of *all* sales of principal commodities in the British Empire,

[1] *Op cit.*

[2] Such British exports were specifically excepted from the general quantitative provisions regarding imports into Turkey.

[3] See *supra*, p. 112.

all sales in the United Kingdom of secondary commodities (except raw cotton), and *all* sales of principal commodities in foreign countries through the Eti Bank and the Komür Satis Birligi "against foreign exchange freely convertible into sterling" are to be remitted to the Anglo-Turkish Commodities Limited. These proceeds are specifically earmarked for expenses of the latter company,[1] payments due H. A. Brassert & Company in respect of the contract to build an iron and steel plant in Turkey,[2] and debts arising under the credit guarantee scheme. Any insufficiency of funds to meet these charges is to be made up immediately by the Turkish Government.

In addition to these charges, the receipts of these companies are to be employed for the payment of certain public utility annuities due creditors in Britain, and for payments due under the Armaments Credit Agreement. The defence loan is thus commercialized.[3] Finally, the proceeds of wheat imports from Turkey before January 1, 1939, may be used by the Anglo-Turkish Comptoir Limited, if it is still in existence, or the Anglo-Turkish Commodities Limited for financing the sale of ships in the United Kingdom to Turkish buyers. Should there remain any balance at the end of each year after all these charges have been met, provision is made for its transfer to the "Clearing Account" for allocation in accordance with the terms of the supplementary clearing agreement.[4]

Similar arrangements to these are apparently to be created to assist the bilateral flow of Anglo-Rumanian trade and payments. This is foreshadowed by the provisions of the Protocol signed with Rumania on May 11, 1939, which records that the two Governments "propose to encourage the formation of appropriate organizations to be set up by business interests in the United Kingdom and in Rumania respectively, and guarantees (credit) may be given by His Majesty's Government in the United Kingdom to facilitate the operations of any organizations which may be set up in the United Kingdom for this purpose."[5]

[1] Prior to the institution of the Anglo-Turkish Commodities Limited, the expenses of the Anglo-Turkish Comptoir Limited are included.

[2] The Karabuk Steel Works

[3] It is interesting to observe that the preamble of the Armaments Credit Agreement refers to the economic programme of the Turkish Government "whereby provision is made for substantial increases in the amount and value of the mineral and certain other products to be exported from the Turkish Republic in future years"

[4] See *supra*, p. 112

[5] *Op. cit.* An editorial in *The Times* stated "If British goods are to find a sale in Rumania it is essential that we should help Rumania to sell the goods she produces, either in British or *other free currency countries*" May 12, 1939. Italics mine.

This is confirmed by a more recent statement of the President of the Board of Trade in the Commons.[1] While the details of the joint trading organisation to be set up have not as yet been revealed, it should be noted that the political element is quite strong here, the background of the Protocol being the German extinction of Czecho-Slovakia. The dominant economic motives appear to be the penetration of Germany's discriminating monopoly of foreign trade, the difficulties which have been encountered in the operation of the clearing, and possibly the precedent established in the case of Turkey.[2]

The economic implications of officially sponsored and directed joint trading organizations, such as has been established in the case of Turkey, are interesting. The provision for Turkish exports to free exchange countries through an official intermediary company in order to provide funds for the payment of British exports to Turkey, including armaments, may be viewed as evidence of the failure and breakdown of the bilateral system governing commercial relations between the two countries. It is, in a sense, a type of forced and distorted reversion to the multilateral system of international trade. The basic origin of the arrangement lies in the effect of the collapse of a multilateral system of trade upon a country, such as the United Kingdom, which has not modified, and probably could not modify without incalculable loss, its production structure so as to permit the bilateral system to function even at a lower level.

Such arrangements appear, moreover, to be parasitic in nature since they ultimately depend upon the existence of free-exchange countries which have no rigid bilateral arrangements with Turkey. Nor can this development be viewed with equanimity by the free-exchange countries concerned since, to the extent to which their products enjoy a market, however small, in Turkey under the latter's bilateral policy, this market must inevitably be further restricted, relatively if not absolutely, if British policy in this sphere is successful.[3] Thus, what might under a freer régime of world trade be of less significance

[1] *Parliamentary Debates*, Commons, June 9, 1939

[2] The President of the Board of Trade, in the statement above, referred to British trade relations in South Eastern Europe "which had been rendered more difficult in the past few years as a consequence of Germany's trading methods in that area" and "the serious situation caused by the presence in South Eastern countries, particularly in Rumania, of any number of German agents."

[3] See Department of Overseas Trade, *Report on Economic and Commercial Conditions in Turkey*, 1936, p. 24

becomes an immediate question for such countries because of the close linking up of imports and exports in Turkey.

It is interesting to note in this connection that one of the reasons offered for the conclusion of a two-way clearing between the United Kingdom and Turkey in 1936 was the fact that Germany was re-exporting Turkish products to the United Kingdom and thereby securing free sterling.

It is also worth while recalling, in this connection, the exchange provisions of the Turkish-American trade agreement signed at Ankara on April 1, 1939.[1] This provided that exchange for the payment of American exports was to be allocated to the extent of 10.91 per cent of the value of all commercial imports into Turkey.[2] Imports from the United Kingdom under the Export Credit Guarantee Agreement are excluded from the figure for total imports, in so far as such imports are not paid for in the calendar year in question. A shortage of dollar exchange to meet American trade requirements becomes possible under these circumstances since part of the dollar funds arising out of imports from Turkey through the United Kingdom may be soaked up to pay for British exports to Turkey. This in turn might well make it difficult for Turkey to supply dollars to pay for American imports even though the balance of merchandise trade remained active to Turkey. In this event, blockages would result and the American exchange provision would be defeated.[3]

Special Trade Promotion Provisions.

Mention should also be made here of certain other provisions in the Rumanian Protocol referred to above. These have been designed to counteract German economic penetration into Rumania, partly because of the interests of British export trade and partly a result of the political implications of such penetration.[4] The Rumanian Govern-

[1] Department of State, *Text of Trade Agreement between the United States of America and the Republic of Turkey*, press release, April 1, 1939

[2] Derived from the proportion of the total commercial imports into Turkey supplied by the United States during the period January 1, 1935, to December 31, 1937.

[3] The exclusion of imports into Turkey from the United Kingdom under the credit agreement which have not been paid during the year in question fails to consider the possibility that such products may displace American products permanently with repercussions upon American exports to Turkey in subsequent years

[4] "But though normal considerations cannot be forgotten, there has never been any pretence that the sending of the British Mission or the conclusion of an agreement were ordinary peace-time measures devoid of any political content" *The Economist*, London, May 20, 1939, p. 420.

ment undertakes to encourage the use of modern oil-refining machinery, and such companies in which there is a substantial British financial interest are to receive most-favoured-nation treatment regarding " the grants of permits for exploration and exploitation of new lands and in all matters concerned with the grant and operation of concessions and with the production of oil." [1] The machinery of export control of oil is to be simplified, and freight charges and export taxes are to be re-examined with a view to assisting the oil industry to export more easily. The machinery in effect regarding the export control of timber is also to be made less cumbersome.

The British Government on its part offered to give " such assistance as it can to the Rumanian authorities to secure the advice of experts in regard to the best methods of meeting the requirements of the United Kingdom market " In addition, Britain undertook to purchase 200,000 tons of Rumanian wheat from the next crop " if available at world prices ". Owing to the German magnet of agricultural prices stabilized about world levels, it may be remarked, that this can only be realized through subsidies by the Rumanian Government. Finally, part of the funds available through British export credit guarantees is to be used to finance the equipment of silos in Rumania in order to improve storage facilities and the marketing of grain exports from Rumania.[2]

Export Credit Guarantees.

It may be observed that in recent years the British Export Credits Guarantee Department has extended its field of operations to, *inter alia*, medium term financing of exports of capital equipment of United Kingdom origin. In two important cases, through agreements with the Governments of Russia and Turkey, the Department has provided what amount to in fact international loans to the extent of £20,000,000.[3] The *modus operandi* of these transactions involves the issuance of bills by the foreign government concerned which, with the endorsement of the Department, are offered for sale in London. The proceeds are paid out to the British exporters of capital equipment. Repayment

[1] *Cf. The Times*, March 24, 1939, which contains a summary of the Rumanian-German Trade Treaty signed on March 23, 1939.

[2] These provisions should be read together with the payments provisions discussed earlier. See *supra*.

[3] For some technical details see the texts of these agreements, Russia, July 28, 1936, *Cmd. 5253*, Turkey, May 27, 1938, *op cit*; and F H Nixon, *op cit*

is amortized over a period of years. These facilities differ from the orthodox species of international loan, for which they are intended as a partial substitute, in that they are intimately linked with specific British exports, resembling in this respect loans of former days containing "tying clauses". The Department thus concerns itself with transactions closely related to those formerly undertaken by Issuing Houses. It may be noted that though the actual mechanism differs the American Government through the Export-Import Bank has undertaken operations quite similar in purpose.[1]

In this way it appears that the British Government is actually permitting foreign lending, in spite of its embargo on international loans of the ordinary variety, without, however, any pressure being exercised upon sterling for practically no sterling is offered for sale in the foreign exchange market under these arrangements. It is hardly necessary to add that there may be serious objections to the extension of such developments so as to replace on a large scale the functions formerly performed by international lending, the proceeds of which were available for purchases of capital equipment under the most favourable terms available in any country.[2]

Recent developments indicate that this type of lending is destined to occupy a place of growing importance in Britain's external economic relations. Since the Munich Agreement, Britain has been greatly concerned with the competitive possibilities inherent in German trading methods. The view that extraordinary measures might be necessary to safeguard British export trade against German competition has obtained wide support.[3] In February, 1938, a new Export Guarantees Act was passed which was designed, in part, as an essential means of combating German competition. Clause 4 provided for guarantees "in connection with any matter in connection with which it appears (to the Board of Trade) ...to be *expedient in the national interest* that

[1] See Benjamin H Williams, *Foreign Loan Policy of the United States Since 1933*, a report to the Twelfth International Studies Conference, Bergen, 1939, especially Chapter V.

[2] Mr. F. H. Nixon, General Manager of the Export Credits Guarantee Department, has said in this respect : "No one would argue that the medium term credit is a perfect substitute for the long-term international loan, but it has certain advantages which make it particularly useful in the world of economic nationalism in which we live at present." *Op cit.*

[3] *Parliamentary Debates*, Commons, October 31, 1938, and June 10, 1939, "Germany's Trade Offensive", *The Economist*, London, November 5, 1938, pp. 262-267, "Collective Security for Trade", *ibid* May 20, 1939, pp 420-421, "The Fight for Rumania's Trade", *ibid.* June 3, 1939, pp 537-538, "Germany's Trade Aims", *The Times*, November 17, 18, and 19, 1938. Export subsidies and the organization of British export industries were frequently mentioned as measures in this direction.

guarantees should be given".[1] The aggregate liability at any time which the Board of Trade could guarantee was fixed at £10,000,000.[2] In effect, this constituted a "fighting fund" in the form of credits to be made available to selected strategic countries for the purpose of expanding British export markets.

It is important to bear in mind that this development formed part of an official drive for export markets. As part of this programme, British Ministers were to visit Berlin and various northern countries including Russia. It was expected, in this way, to even out further the bilateral trade balance with certain countries other than Germany.[3] In the latter case, the aim was to arrive at some control of Anglo-German competition as a supplementary effort to the credit facilities referred to above. The results of the trade conversations between the Federation of British Industries and the Reichsgruppe Industrie will be considered further in a later chapter.[4] The emphasis at this time was definitely upon the commercial aspects of German competition.

The political events of March 1939, which suspended, for the time being at least, the full implementation of industrial entente between members of the Federation of British Industries and the Reichsgruppe Industrie, also led to the enactment of a bill increasing the fund from £10,000,000 to £60,000,000.[5] In addition, the allocation for re-exports was raised from £2,000,000 to £6,000,000. By providing a separate statutory basis, the "fighting fund" has been completely divorced from the ordinary commercial transactions of the Export Credits Guarantee Department. The most important change made by the new act, aside from the increase in the size of the fund, permits the Board of Trade to acquire and hold any bills issued under either the old or the new statutory provisions.[6] It is anticipated that the major part of the larger credit facilities now available will be used to assist the rearmament of countries forming the so-called "peace front".

Credit facilities have now been granted in Europe to Rumania

[1] February 28, 1939, *2 and 3 Geo. 6*, ch 5 Italics mine

[2] While it is not entirely clear to use the term "guarantee" in this connection, the term is employed because such arrangements are so described by the British Government

[3] *The Times*, February 22, 1939 In the case of Russia a reduction in the proportion of re-exports from Britain in the bilateral trade, for the benefit of British goods, was desired

[4] *Infra*, Chap. XII

[5] *The Times*, July 7, 1939, *Parliamentary Debates*, Commons, July 14, 1939

[6] This is to prevent marketing difficulties from obstructing the operation of the programme.

and Greece to the extent of £5,500,000 and £2,000,000 respectively.[1] Conversations are in progress regarding the extension of credits to Poland. It is interesting to observe that Poland's desire to secure free sterling which could be used for purchases in other countries has proved a stumbling block in the negotiations.[2]

The Protocol to the new clearing agreement signed with Rumania on June 12, 1939, simultaneously with the guarantee agreement, provides for Rumanian purchases of specified products in the United Kingdom, for delivery before January 1, 1940, to the extent of £750,000. Of this amount £650,000 is to be paid for by funds made available under the guarantee facilities. The remaining £100,000 will be assimilated into the framework of the new clearing agreement.

The new powers of the Board of Trade cannot be evaluated upon economic grounds alone since the emphasis under present conditions is chiefly political. However, it would be a mistake to ignore the economic aspects, if only for the fact that a "fighting fund" would have been instituted even in the absence of international political difficulties.[3] It should be recognized that new credit facilities fit quite consistently into the general pattern of recent British commercial policy. For this reason it would be too much to hope that the sterling proceeds of loans made under these provisions might be made available for purchases determined solely by market considerations. This applies, of course, also to the operations of the Export-Import Bank of the United States. The seeds of a real struggle between the United States and Britain in the drive for export markets appear to have been sown. Unless it is assumed that competitive power is lacking, there does not seem to be any important economic reason why German trading methods cannot more efficiently be met by free credits.[4] If the former is true,

[1] *The Times*, July 13, 1939, July 12, 1939, *Cmd. 6063*, and *6072*, respectively. China received a grant under clause 4, while New Zealand has been promised funds for rearmament and commercial requirements.

[2] *The Times*, July 17, 1939, *The Economist*, London, July 22, 1939, p. 160.

[3] The following excerpt from an editorial in *The Times* is of relevance in this connection: "It should be added that, though in the present circumstances the supply of armaments is in question, the bill possesses more than a temporary significance and is not confined to facilitating the supply of armaments. It should be of permanent service in helping other countries to preserve their economic independence by enabling them to avoid exclusive dependence on any one market. ." July 7, 1939.

[4] For Britain the possible repercussions of pressure upon sterling would have to be considered The matter is complicated here by the enormous rearmament programme in process. The above discussion assumes a considerable lessening of political tension.

then the proper remedy appears to be something other than recourse to special credit facilities.[1]

GOVERNMENT PURCHASES.

The British Agreements contain no standard or uniform provisions regarding Government purchases such as are to be found in the American agreements. This is, of course, what one would expect in view of the characteristics of the British agreements that have been brought to light in the preceding chapters. In a discussion in the House of Commons regarding the Anglo-Danish trade treaty of 1933, the President of the Board of Trade made the following statement [2] :

> "The Danes are prepared to agree to a general understanding for Government purchases and also for municipal purchases — that is to say, as far as this can be influenced by the Government. The first offer of orders shall be made to United Kingdom firms coupled, in the case of Government purchases, with a price preference of 10 per cent, and, in addition, private purchasers shall be urged to give the first offer for iron and steel to the United Kingdom wherever possible"

This is to be contrasted with the American provisions in respect of Government purchases which attempt to apply the principle of equality of treatment in such cases. The Danish undertaking above does not, it may be noted, constitute a part of the published agreement.

In the Turkish and Rumanian trade and clearing agreements further provisions in this sphere are to be found. The Rumanian agreements simply provide for the allocation of sterling to meet payments for Government purchases. Under the terms of the Turkish agreement of 1935, the United Kingdom was permitted to participate in Government tenders, Turkey undertaking that "United Kingdom goods purchased by the Turkish Government or the Departmental and Municipal Authorities in Turkey will be permitted to be imported without any restriction as to quantity". Payments for such goods were, of course, within the framework of the clearing.

[1] It is quite possible, in Britain for example, that the plea for relief from German trading methods by exporting industries constitutes, in part at least, a mask designed to conceal inefficiency and to secure Government assistance to buttress competitive power

[2] *Parliamentary Debates*, Commons, Volume 277, May 10, 1933, col. 1543-4 This forms part of a lengthy discussion regarding the Danish and Argentine agreements and offers a most revealing commentary concerning British bargaining technique with countries such as Denmark.

These are the only published provisions, within the writer's knowledge, which have appeared regarding Government purchases.[1] It is true, of course, that part of the funds available under the credit guarantee agreements have been used and will continue to be used for Government undertakings. These appear to be, however, in a somewhat different category.

The significant aspects of the above provisions are the preferential treatment which the United Kingdom secured in the case of Denmark, and the assimilation of Government purchases into the bilateral clearing framework established in the agreements with Rumania and Turkey. Generally, it may be assumed, in view of the character of the various agreements negotiated by the United Kingdom, that where bargaining power has made it possible the British have probably received something more than simple most-favoured-nation treatment.[2]

[1] The provisions regarding the prices to be charged by the Norwegian alcohol monopoly might be considered as also relevant here. See *supra* p. 69

[2] Note should also be taken here of the effects of British commercial policy in this sphere. For example, the Norwegian undertaking to import 70 per cent of her total coal imports from the United Kingdom required the cartellization of the coal trade in the form of the establishment of a State Coal Office. This permitted imports to be diverted to Britain in spite of the higher price of British coal as compared with that of other national origins. International Studies Conference, Twelfth Session, Erling Petersen, *Memorandum on the Repercussions of Modern Commercial Policies on Economic Conditions in Norway*, Paris, 1939, pp. 57, 72. (Mimeographed)

PART THREE

CONCLUSION

CHAPTER XII

CONTRASTS IN INTERNATIONAL TRADE POLICIES

It must be apparent from the preceding chapters that the external trade policies of the United States and Great Britain differ profoundly in nature and scope. The cornerstone and basis of America's foreign trade policy is the principle of equality of treatment. The American system rests upon the premise that multilateral trade and payments, facilitated by the principle of equality of treatment and originating in private enterprise and initiative, provide the system most calculated to expand the world's real income and so improve the real standard of living of the peoples of the world. It is reciprocal in nature, and posits that the establishment of an effective régime of equality of treatment requires that a country not only grant no preferences in its market, but also refrain from requesting concessions likely to be preferential in character. It is essentially the classical economic conception of the benefits flowing from international specialization of the world's resources and its obverse, the mutual economic interdependence of nation-states.

In practice, however, as was observed earlier, the application of these principles to systems of commercial policy extensively employing exchange restrictions and quantitative controls, cannot be said to have been wholly satisfactory. The principle of equality of treatment is most easily applied to quantitative controls when they are of recent origin, for then trade may be related to a base period. The longer such controls remain in effect, the more arbitrary any relation to pre-restriction trade becomes. If a period is selected during which the controls have been in operation, the base becomes a period which itself was influenced by the restrictions in question. There is no method by which trade can be regulated on the basis of competitive market forces, for such forces are, at least partially, suppressed under the controls. It is, therefore, impossible to achieve the objective of equality of treatment which, in the orthodox sense, must mean the allocation of national shares according to what they would be in the absence of such restrictions.

Some of these difficulties may be overcome by the use of unallocated global quotas administered by licensing arrangements permitting market forces to operate within the global quota. But even here, as was pointed out in an earlier chapter, discrimination through the

operation of licensing arrangements may be unavoidable. Practically, it is hardly likely that unallocated global quotas will find wide employment, since they do not permit control of imports according to national origin. This is, of course, a cardinal requirement in any bilateral system.

With respect to quota concessions, as distinguished from the application of the most-favoured-nation principle, difficulties also appear. Recourse to a so-called " representative " period may be satisfactory for a relatively short period after the institution of quantitative regulation of imports. But as the period or restriction lengthens, this becomes a more and more artificial criterion, as was shown above. Minimum quantum quotas (the United States purposely shuns value quotas because of the difficulties involved) may even lead to a preferential position in a foreign market if global imports of the products concerned are reduced. From this view it might be more consistent actually to specify a percentual share in accordance with some previous period, artificial as this might be, rather than any minimum quantum.

In the calculation of quantum quotas, the percentage supplied by the United States in a previous period is the essential method employed. The American theory of equality of treatment in this respect holds that so long as such percentages do not give exclusive advantages to the United States they do not violate the most-favoured-nation principle. However, it is easily observed that the base period employed in the calculation of such percentages may and usually seems to be one in which the United States enjoyed a satisfactory position as the supplier of the product in question. This may not be considered " representative " by other countries so that its designation as " representative ", aside from the considerations pointed out above, may be quite arbitrary. But of prime significance here is the fact that the use of such percentages must become completely arbitrary with the passage of time, and so mean nothing in terms of the principle of equality of treatment. They may in fact lead to discrimination in favour of American products since they ignore trends in the competitive position of individual producers in different countries.

In the trade agreement with Czechoslovakia, quota concessions to the United States were expressed in terms of a minimum quantum and percentual share. During a period when imports into that country might have been reduced, the implication would seem to be the same as that described earlier for minimum quotas. Under expanding imports

the result would be different, for here an absolute automatic expansion of imports from the United States would be provided for. This increase would be divorced from market forces.

The conclusion must be, therefore, that the principle of equality of treatment cannot be applied satisfactorily under present conditions to quantitative restrictions, and that with the passage of time the difficulties in this direction will be enhanced by the very nature of the controls.

Nor can it be said that greater success has met the efforts of the United States in the realm of exchange restrictions. The exchange provision most generally used hitherto, *i.e.*, the allocation of exchange on the basis of the proportion of total exchange required for American requirements in past years, has proved unworkable in practice. The reasons for this were given earlier and need not be repeated. Even if it were practicable, there would remain the serious disadvantage of employing past trends to govern future payments. Moreover, there has been a complete lack of co-ordination between the quantitative and the exchange provisions, — a rather unrealistic treatment in view of the growing integration of the two controls in foreign countries.

The newer form of exchange article, *inter alia*, prohibiting the imposition of any restrictions upon the transfer of commercial payments while constituting in many respects a considerable improvement over the earlier provisions, is itself open to certain difficulties. Its principal merit lies in the attempt to integrate the regulation of trade and payments under the trade agreement provisions into a single unified control of imports. In a sense this constitutes a somewhat belated recognition of corresponding developments in this field in exchange control countries. However, the shifting of emphasis to quantitative controls, as distinguished from exchange control, which this implies, raises all the issues discussed above in this connection. Since the integration of the control of trade and payments into national systems of economic policy in foreign countries has generally been strictly bilateral in character, the logical conclusion is that America's trade relations with such countries must become more and more artificial and arbitrary, until finally completely divorced from the orthodox concept of the principle of equality of treatment.

It must also be observed, in this connection, that the rigid requirements of the new exchange provisions are such that to date their employment has only been practical in cases in which the United States

had had a passive balance of trade. While Italy may seem to be an exception, the heavy outward payments from the United States to Italy on "invisible account" must be considered. The dependence of an important phase of American trade policy upon the bilateral balance of trade, or payments, raises a fundamental question of far-reaching implication. The effective implementation of the new exchange provisions under these circumstances cannot be considered successful either in bridging the gaps between commercial policy systems, or a device promoting the principle of equality of treatment — an outstanding objective of American trade policy. It is not American policy which governs the trade relations in these cases, but the bilateral system of the foreign country which, as long as it has an active balance of trade with the United States, can meet the requirements of the new exchange provisions. There is no promotion of multilateral trade. The net result, therefore, of this situation is that American policy in this sphere, as it now functions, depends upon a bilateral concept, wholly inconsistent with the philosophy of the American trade programme.

These remarks are not made in criticism of the efforts of American trade policy as such in this field, for none would deny the sincerity and whole-hearted endeavour of the American Government to implement the principle of equality of treatment in the fullest degree possible. They are to be considered more as a reflection of apparently insoluble difficulties arising out of fundamentally discordant elements in international economic relations. The nature of these elements and their broad significance will be considered later. For the present, it is sufficient to observe that American trade policy has not successfully coped with the problem of the quantitative controls and exchange restrictions.

It may be observed further that the principles of American trade policy cannot be effectively applied to monopolies of foreign trade, including the Russian State monopoly of all foreign trade. The reason lies, primarily, in the fact that the principle of equality of treatment has been conceived in respect of and applied to the relations between States whose economic organization has been based upon private capitalism. It is a principle devised to allow private initiative and enterprise of different countries to compete in a given national market under conditions of equality, in so far as the Government of such country may regulate the conditions in which such trade is conducted. Under monopoly conditions, in the sense employed here, the forces of private competition which might ordinarily determine the source of imports

are necessarily absent in the monopoly country. In this case the Government does not prescribe the conditions under which various producers in different countries may compete among themselves, and with domestic producers, to supply the market of the country in question but itself imports in accordance with the objectives of the monopoly. This means that the origin of imports becomes more or less arbitrary and divorced from comparative costs. The history of the Russian monopoly, and other import monopolies under recent commercial policies clearly indicates that ordinary market forces need not be the dominant factors determining the source of imports.

Under these conditions, the principle of equality of treatment cannot be applied. But there appear to be further implications here.[1] It is believed that the observations above will become increasingly applicable to a number of other States whose recent external and internal economic policy developments exhibit a growing assimilation of private trading functions into the sphere of governmental activity. In fact, however, this conflict with the most-favoured-nation principle has already been recognized by such countries, by the institution, for a number of reasons, of the concept of strict bilateralism in their external trade relations. Since such countries have expressly renounced this principle, the problem takes on a different aspect — *i.e.*, the relations between multilateral and bilateral trade policies. The point is,however, that it would become, in any event, quite difficult for such countries to cling to the multilateral trading principle in its complete sense, even if such a desire were to influence the formulation of external trade policy.

When attention is turned to British commercial policy, striking differences appear in the nature and scope of the approach to the problem of commercial relations employed. An examination of Britain's many trade and payments agreements reveals comparatively little of the general consistency so characteristic of American trade policy. Instead of any attempt to build a general framework of commercial relations based upon a multilateral system, there is what might be described as an improvised policy designed to fit easily, according

[1] It is to be observed that the very extensive development in recent years of administrative control over foreign trade relations accompanied by wide discretionary powers has, in practice, tended to render more difficult the functioning of American policy in this sphere. This has permitted the evasion of trade agreement obligations and hinders the negotiation of other agreements. This development appears much less difficult regarding agreements between two countries pursuing bilateral policies since relations may be checked by trade statistics, defective as they may be, and bilateral payments requiring transfer.

to the consideration of the British interests involved, into the trade regulation and commercial policy structures found in different countries. If the term "policy" can be used, then it may besaid that British policy has been purely opportunistic in character in contrast to the uniform principles which the American Government has devoutly pursued. The outstanding fact about British external trade policy since the adoption of full-blown tariff protectionism is its strong bilatera lflavour. If the earlier chapters have demonstrated anything it is this one fact. The purposes of British bilateralism have been twofold — the immediate expansion of exports to certain markets, and debt collection from other countries.

While the British Government has officially recognized, in its import policy, the application of the most-favoured-nation principle to quantitative restrictions, the quota and quantitative concessions obtained from foreign countries have, with a few minor exceptions, been totally and explicitly divorced from any concept of equality of treatment. Both the provisions themselves, and the context of the agreements into which they have been inserted, offer incontrovertible evidence of this fact. The objective has sometimes been an immediate expansion of British exports in return for a promise to limit in some fashion any further restrictions which might be imposed upon imports into the United Kingdom. In other cases, the British Government has deliberately wished a restriction of the quotas allotted to United Kingdom products in order to facilitate debt collection.

In both cases, the British Government has accepted, or indeed sought, quota provisions upon an arbitrary basis according to the bilateral balance of trade, and, for the latter group of countries mentioned above, the bilateral balance of payments.

As the period during which quantitative restrictions have been in effect lengthens, the difference here between British and American policies narrows down somewhat, since American quota concessions, as was shown above, must also become more and more arbitrary. The underlying conception of quota concessions has, however, been radically different. While in the longer period American devices in this field become more arbitrary, *i.e.*, bear little relation to what trade would be in the absence of such restriction, the British Government, from the start, have disregarded any principles and have definitely linked such quota provisions with the bilateral balances of trade and payments. Even in the longer period, arbitrary treatment regarding

quantitative controls based upon a desire not to secure any preferences must lead to different results, in some degree, from a policy expressly premised upon bilateralism.

The British Government has avoided the problem of unintegrated trade and payments control which faced the United States, under its most widely used exchange provisions, by the employment of bilateral exchange and clearing agreements with many countries These essentially earmark the proceeds of imports from the countries concerned for United Kingdom requirements The dominant characteristic of these agreements has been their employment as debt-collecting devices Current trade has been generally subordinated to the purpose of liquidating past trade debts and the transfer of financial payments. The British financial creditor has been placed in a superior position.

It is to be noted that, on the question of blockage the British authorities have taken basically the same position which the new exchange provisions of the United States imply, *viz.*, that it is better to have a smaller stream of exports for which the transfer of payments is possible, than a larger volume of exports accompanied by blocked payments. This objective has led the British Government to welcome restrictions upon British exports in certain instances, to provide for increased imports into the United Kingdom, and repeatedly to warn United Kingdom traders to keep down the volume of their exports in cases. This may be considered analogous, in some degree, to the potential encouragement of quantitative restrictions upon American exports which the new exchange provisions provide for.

But beyond this the integration of trade and payments in the two systems of commercial policy differs very widely. The British Government has secured integration through payments agreements which allocate practically all of the sterling arising out of British imports from the individual countries concerned to British transfer requirements regarding that country. In the clearing agreements the United Kingdom has carried out essentially the same objective by more drastic measures. The bilateral and preferential aspects of such arrangements are completely alien to American policy in this field which is directed towards meeting this problem, as far as is possible, within the framework of the principle of equality of treatment.

It is worth while recalling in this connection the position of the American Government regarding blocked trade debts and financial

payments in American commercial policy. In sharp contrast with the British position, the American Government have generally felt that such questions concern it only in so far as discrimination may be practised by a foreign Government against its nationals, as compared with the treatment accorded to the nationals of any other foreign country. The liquidation itself of such debts has been officially considered a matter of private concern alone.[1] For this and other reasons such questions have not formed a part of the economic agreements concluded by the United States with foreign countries.[2] The basic reason perhaps for this position, under the new American trade policy, is the belief that attention should be concentrated upon current trade and current trade restrictions.[3] In this manner it was anticipated that the relaxation itself of trade barriers would ease the problem of international payments and so permit other than current trade debts to be settled.[4]

The use of payments agreements to ensure bilateral payments due to persons in the United Kingdom has, of course, involved preferential treatment and discrimination against other countries. The criterion under these agreements becomes, not the size of British demands for transfer to the United Kingdom in proportion to the total foreign exchange available, but the volume of imports into the

[1] *e g.* U S. Department of State, *Press Releases*, Weekly Issue, No 251, July 21st, 1934, p. 60.

[2] The Brazilian agreement might be considered an exception, though it is quite significant that the financial provisions really formed a supplementary agreement in addition to the agreement proper

[3] See U S Department of State, "International Trade and Domestic Prosperity", *Commercial Policy Series*, No 3, 1934, pp 9-10.

"The current emphasis, therefore, on the current and variable state of the trade balance and the tendency to make such balances, country by country, the basis of an increasing number of special agreements connected with debt payments will inevitably cut across natural channels of trade, and may not improbably reduce the total volume of trade and general transfer capacity Furthermore, since the terms of such special agreements are apt to depend on the real or conceived bargaining position of each of the parties at the moment, the result of the pursuit of this policy will be to make the matter of debt payments a question of national relations rather than obligation or of contract. Such a process must inevitably result in discrimination between various creditors, and thus augment the causes of dispute and ill-will between countries" An excerpt from a memorandum by Mr. Cordell Hull, transmitted to the German Government. U. S. Department of State, *Press Releases*, Weekly Issue, No 248, June 30th, 1934, pp 447-448.

[4] It is not believed that the authority existing under the terms of the Reciprocal Trade Act of 1934, as extended in 1937, would permit in itself consideration of blocked debts. Nor could this be done under the general powers of the President over foreign relations. But special legislation could certainly be enacted.

United Kingdom.[1] There is no provision for the multilateral character of international payments, and the principle of equality of treatment which underlies multilateralism is completely disregarded. It is, of course, true that individual interests have benefited from such agreements, but can this be the criterion of policy for a country such as Great Britain, or any country for that matter?

It was argued in an earlier chapter that Britain's clearing agreements are also open to criticism. It was shown that even from the narrow view of balancing bilateral payments such agreements have encountered serious difficulties. By the very nature of things, it has been impossible to determine a rate of conversion which would enable the various transfers to be made without leading to an unbalancing of the clearing accounts. Such rates must always be arbitrary in respect of the objectives sought, owing to the absence of the required data and market forces necessary to establish a suitable rate of conversion. It is probable that a different economic organization from that prevailing in Britain, and possibly also a different political structure, would be required for a smoother operation of such agreements. Even in the latter case there would be great difficulties, of a somewhat different nature, perhaps, since *inter alia* the rate established would be a most important factor in the barter terms of trade between the two countries.

In the case of Turkey, the transfer of payments regarding ordinary clearing trade is now almost two and one-half years behind. The Rumanian Agreement has seen violent swings, which successfully made Britain first a creditor and then a debtor on clearing account. Only the severe restriction of British exports has prevented an unbalancing of the clearing accounts in the Italian clearing agreement. To attribute these developments simply to the fact that the "proper" rate of conversion has not been established is to beg the question. Apart from the unwillingness of debtor countries to increase the real burden of their debt through a modification in the bilateral rate of conversion, no such rate can be found. In any event, under British experience, trade, strait-jacketed into a clearing structure, takes on a spasmodic and paralytic character.

From a broader viewpoint, of course, such agreements, as well as payments agreements, are open to serious objections on the

[1] It may be noted that in the case of Argentina, since the end of 1933, the problem has taken the form of the rate at which exchange is allocated. Here the effect appears similar to that of a preferential tariff.

grounds of their destructive effects upon multilateral trade and payments. Whatever may be said of other countries, it cannot be maintained that a country whose commanding position in the economic world was vitally dependent upon multilateralism stands to increase its national dividend through a further destruction of that system.[1] For a country such as Great Britain the pursuit of such a policy holds disastrous implications. It is difficult to perceive how such a policy can fail to react adversely upon the trade and payments position of certain other countries, and through these to have further repercussions upon British trade and payments.[2]

British trade policy itself contains a confession of the breakdown of these bilateral arrangements. The institution of special joint-trading organizations to sell the products of clearing countries in free exchange markets, to enable British debts owed by the clearing country to be paid, certainly appears in this light. Such arrangements, as was noted earlier, constitute a type of forced and distorted reversion to the multilateral system to enable a particular bilateral payments arrangement to work. It was also noted earlier, in this connection, that the breakdown of rigid bilateral agreements might be viewed as the logical consequence of an attempt to force bilateralism upon a world's production structure, built up upon the basis of international specialization of the world's resources along lines determined by comparative advantage.

In summary, therefore, it can be stated that the British system is primarily a bilateral one. The Government has insisted upon implementing the principle of bilateral balancing of trade where financial and blocked trade debts have not dictated otherwise. In such cases the weapon of the import balance has been used to the hilt. These agreements not only generally refer to the necessity of evening out the bilateral trade balance, but contain provisions which must be clearly preferential in their nature. In the payments agreements, bilateral balancing of payments is provided for. In certain cases there has been strong pressure, publicly acknowledged, for the diversion of trade to the United Kingdom. In the clearing agreements, Britain has not insisted upon bilateral trade balancing since this would have made

[1] For a British commentary in this respect see F. W. Paish, *Memorandum on the Effects of Exchange Control on British Trade*, International Institute of Intellectual Co-operation, Paris, 1939, pp. 14-15 (Mimeographed document.)

[2] For a brief comparison of the German and British clearing agreement see *The Economist*, May 13, 1939, p. 375

impossible the transfer of financial payments and trade debts.[1] Indeed, the British Government in the case of Italy, and also Turkey, specifically desired a restriction of United Kingdom exports and a stimulation of imports. In the former case, increased British exports upon a bilateral basis had been negotiated when British creditors had been paid off, but a new accumulation of arrears led to new restrictions upon exports. In any case, these clearings provide for bilateral balancing of payments.[2]

With regard to the trade relations of the United States and the United Kingdom with Germany, a few comments seem appropriate here. It is undoubtedly true that British relations with Germany have proceeded much more smoothly than have those of the United States. However, Britain's trade is regulated through a payments agreement, which the United States could not adopt because of its active trade balance, and would not because it is opposed in principle to such agreements negotiated with Germany. It is less difficult to fit a trade policy into the German bilateral system when the bilateral trade balance is such as to incline the German Government to treat favourably the imports of the country concerned. Moreover, in the absence of such inclination the possibility of retaliation forms an added inducement. Perhaps, if the United States had a passive trade balance with Germany, the course of the recent trade relations between the two countries might have been, in the short period, somewhat less strained. Trade relations with Germany on this basis, however, would not in any way constitute a furtherance of the principles motivating American policy.

The British Government has, then, used to the hilt its enormous bargaining power to secure preferential and trade canalizing agreements.[3] The meaning of the most-favoured-nation principle in British commercial policy has undergone a peculiar transformation in recent years. Time and again in recent years, the British authorities have officially approved the most-favoured-nation clause, yet, as this study has demonstrated, Great Britain has done violence to the principle of which

[1] This is also true of the payments arrangements with Germany. As was noted in the relevant chapter, the United Kingdom expressly accepted and approved an import balance as the only method by which financial debts due the United Kingdom could be paid.

[2] The Anglo-Russian agreement falls in this category, also providing for bilateral balancing of payments

[3] This bargaining power has been composed of an import balance of trade, agricultural protectionism, the new flexible tariff, imperial preference and the existence of alternative sources of supply for the agricultural products of certain countries not possessing alternative markets for their products

that clause is an embodiment. If the British concept of most-favoured-nation relations can be compressed into a single statement, it would be that they are willing to grant equality of treatment in the British market for something more, in some cases a great deal more, in return as regards their exports.[1] It must be such treatment which the British Government regard as meeting "reasonable requirements... in regard to the treatment of United Kingdom goods."[2] In other cases the principle has been completely set aside by the negotiation of bilateral payments and clearing arrangements.

It is difficult to reconcile the facts stated above with the views expressed by the President of the Board of Trade when he described British trade policy in the following terms[3] [2]

> "Our policy is founded on equality of opportunity for all nations, and is qualified only by the duty of other nations to play their part in the same general scheme. Our policy rests on the belief that only the removal of the artificial restrictions which at present hamper multilateral trade can restore the volume of turnover which was reached before the crisis of 1931."

A real conflict exists between the commercial policy systems of the United States and Great Britain. British bilateralism must seriously impede the efforts of the United States to promote multilateral trade upon the basis of non-discrimination. This obstruction results from the destruction of the multilateral system which the British agreements aggravate, and the difficulties which they offer to the American trade agreements programme itself. The United States, by the very nature of its trade policy, cannot negotiate a trade agreement with a country already bound to accord wide preferential treatment to the United Kingdom. Such countries as Argentina, Denmark and the three Baltic countries, for example, can hardly undertake to grant American products equality of treatment when they are under heavy pressure from the United Kingdom to accord products of the latter country preferential treatment in line with the principle of bilateral trade balancing.

How could Argentina under the older form of American exchange provision undertake to allocate exchange to the United States upon

[1] The British Government has recognized the application, with respect to United Kingdom imports, of the clause to quantitative controls. *Parliamentary Debates*, Commons, Volume 324, May 25, 1937, Col. 98

[2] *Parliamentary Debates*, Commons, Volume 309, March 3, 1935, Col 1175.

some fair and equitable basis when the United Kingdom reserved for its own requirements all of the sterling proceeds of imports into the United Kingdom? Even under the newest form of exchange provision, Argentina cannot permit exchange to be allocated to American requirements at a rate as favourable as that granted to exchange for British requirements when the reason for such differential exchange rates is principally a scarcity of exchange. Nor would the provision prohibiting restrictions upon the transfer of payments be possible, since any threatened scarcity of exchange would be met by the imposition of quantitative restrictions which would have to be upon a basis bearing some resemblance at least to the principle of equality of treatment. Such a move would require some proportionate restriction of British imports but this would be impossible under the terms of the Anglo-Argentine agreement.[1]

To cite one example of the practical operation of British policy in Argentina, in 1933 — shortly after the Roca exchange agreement — an official circular was issued in Argentina providing that all dollar transfers were to be made only in dollars derived from Argentine exports to the United States. While this was the subject of a memorandum of protest on the part of the American Government and was subsequently repealed, it is illustrative of the difficulties which face an American trade agreement with that country.[2]

With regard to British clearing agreements, it is not insignificant that shortly after the institution of full bilateral clearings with various countries concerned, the American Secretary of State, Mr. Cordell Hull, considered it appropriate to make the following observations[3]:

> "The establishment of an effective régime of equality of treatment, however, requires not only that nations refuse to grant preferences in their own markets, but also that they refrain from seeking a preferred position in markets of other countries. The pursuit of exclusive advantage tends to render it difficult and, in certain cases impossible, for the country which grants them to extend equally favourable and hence non-discriminatory treatment to the commerce of all nations. Unfortunately, in this respect, the practice followed in recent years by some

[1] It is interesting to note that no exchange provisions providing for equality of treatment appear in the Anglo-American trade agreement. These provisions have been frequently inserted in trade agreements with free-exchange countries.

[2] *Buenos Aires Herald*, June 9th, 1933

[3] U S Department of State, *Press Releases*, Weekly Issue, No 347, May 23, 1936, pp. 535-536 Italics mine

important countries has, in several important instances, diverged from essential adherence to the principle of equality of treatment

"This divergence is particularly apparent in the making of clearing agreements, which almost inevitably result in inequality of treatment: preference for the country initiating the clearing agreement and discrimination against some, if not all, other nations, in that the foreign exchange receipts of the country in question are not divided among its creditors on current accounts in proportion to the size of their claims but according to an arbitrary plan

"The logic of the clearing agreement technique is bilateral balancing and, as I have indicated, bilateralism is inherently discriminatory and tends to level down the volume of trade between countries entering into such arrangements, rather than to augment an already diminished trade. *I therefore cannot sufficiently stress the relation of augmented world trade to the abandonment of short-sighted artificial expedients*, and the vital importance of the world returning again to the sound principle of most-favoured-nation non-discriminatory treatment — a principle which served well the interests of world trade for many years, and which, therefore, has proven itself by the test of experience."

The significance of this clash may be far-reaching with respect to the future of the commercial relations between nations.[1] Clearly, the success of the American programme of reducing international trade barriers and promoting multilateral trade must be of concern to Great Britain. If Britain's vital interests are similar to those of the United States, it appears that a great opportunity, which may not recur for years to come, for economic collaboration of the most powerful sort is being wasted because of the essential short-sightedness of British external economic policy.[2]

[1] It should be noted that the two Governments have also differed in the question of long-term debt payments due by Germany, the United States insisting upon equality of treatment without success, and the British Government succumbing to the pressure of British financial interests, and accordingly securing preferential treatment See, *e g*, U S Department of State, *Press Releases*, Weekly Issues Nos. 241 and 270, July 31st, 1934, and December 1st, 1934 respectively

[2] The Anglo-American trade agreement has been possible principally because Britain does endeavour to apply the principle of equality of treatment to imports and because the United States was willing to recognize officially the discriminations of imperial preference. The chief effect of the agreement appears to have been the further reduction of the unconscionable American tariff Nothing was done regarding British bilateralism. In spite of this, however, the agreement, at least from the American side, must be viewed as a real achievement

The recent barter agreement, wheat against rubber, between the two countries could hardly have originated in the Department of State of the United States. See *supra* pp. 43-44 and *Cmd. 6048*.

It is true that were the British authorities to shift to a full régime of equality of treatment, the same difficulties of implementation would be met regarding quantitative controls and exchange restrictions which have faced the United States. But there would be important differences in the situation. The foreign countries concerned would be freed, to this extent, of any compulsion to treat British products upon a bilateral and preferential basis This, in turn, would provide greater scope in the formulation of the external trade policies of such countries. The economic satellites of the British market would be especially affected by a reversal in British policy.[1] If this were combined with a considerably more liberal British import policy, particularly as regards agricultural products, it is quite possible that such extra tariff controls might in time be abolished in some, if not all, such countries.[2] In all cases, the multilateral system, with its real income implications, would certainly function over a wider area.

But the most important result would be the immense influence which such a British trade philosophy could be expected to exert upon the course of commercial relations. The full weight of the enormous economic power of the United States and Great Britain could be placed behind the restoration of a liberal international trading system. This would probably be its great contribution. Under such collaboration, the problem of non-tariff trade controls would probably become relatively simple, for the force of such co-operation could remove the underpinnings of these controls.[3]

These observations are less easy of application to the trade relations of various countries, within the contemplated liberal system, with Germany and countries of the " mark area ". The net result might be the existence of two very different trading systems. The possibilities of rapprochement hardly appear promising, for the German system would presumably maintain its rigid control of trade and payments. This would lead to the problem of fitting a multilateral into a bilateral system, with all the difficulties which this study has shown must accom-

[1] To make this fully effective a considerably more liberal United Kingdom import policy, in line with the tendencies in American policy, would be necessary

[2] A number of other factors would, of course, also be involved in such a process, but the one mentioned here would certainly rank among the most important ones

[3] The writer, during his travels to various countries in Europe, has been impressed with the strength of the liberal tradition in many of the smaller countries which are heavily dependent upon the British market They correctly argue that they cannot, however willing, return to the liberal system unless British policy is changed

pany such an attempt. Further consideration will be given to this aspect in the final chapter

However, as desirable as the above approach suggested might seem, the fact must be faced that there is little hope of such collaboration materializing. The roots of British bilateralism, and protectionism, are so deeply embedded in the internal economy of Britain that the hope of any change in the near future appears dismal indeed. And herein probably are to be found some of the basic reasons for the divergencies in the policies of the two countries. The impact upon an already hardened industrial structure of wide agricultural and industrial protectionism, the adoption of the principle of reciprocal imperial preference, and the astounding degree of cartellization of industry have profoundly changed the character of the British internal economy.[1] Liberal trade principles have been abandoned. The emphasis upon an immediate expansion of exports leads one to the belief, in the circumstances, that the rigidities in the British economic structure have inspired the British Government to seek to retrieve and maintain its competitive position in export markets through the full utilization of Britain's bargaining weapons.[2] In this way the inherent costs of flexibility have been side-tracked and the economic effects of this resistance partially offset in the short period. In the longer period, Britain's real standard of living must suffer.

Indeed, there is abundant evidence indicating that Britain will depart even further from the liberal system. The position taken regarding commercial policy by such important organizations as the Association of British Chambers of Commerce and the Federation of British Industries offers definite evidence in this direction.[3] The coal agreements with Germany and Poland in respect of competition in neutral markets certainly suggest the same conclusion. Moreover, the discussions between the Federation of British Industries and the Reichsgruppe Industrie, held during the early part of 1939, were to have led to the division of foreign markets and agreements regarding prices of competitive products as "a most important step towards a

[1] See Professor Ben. W. Lewis' admirable pamphlet, *Prices and Production Control in British Industry*, Public Policy Pamphlet No 25, University of Chicago, 1937.

[2] There is no evidence to support the view that unorthodox German trading methods has been a factor of any real importance regarding Britain's export markets in recent years. See "Germany's Trade Offensive", *The Economist*, London, November 5, 1938, pp. 263-264.

[3] *E g.*, *The Daily Telegraph and Morning Post*, October 21, 1938, Association of British Chambers of Commerce, *Report on Export Trade*, January, 1939, *The Times*, April 20, 1939, *The Economist*, London, May 13, 1939, p 365.

more ordered system of world trade ".[1] The extent of Anglo-German collaboration anticipated is indicated by the following extract from the joint declaration of the two organizations issued in Dusseldorf, Germany.[2]

> "The two organizations realize that in certain cases the advantages of agreements between the industries of the two countries, or of a group of countries, may be nullified by competition from the industry in some other country that refuses to become a party to the agreement. In such circumstances *it may be necessary for the organizations to obtain the help of their Governments*, and the two organizations agree to collaborate in seeking that help.
>
> "The two organizations agree that it is their objective to ensure that as a result of an agreement between their industries *unhealthy competition* shall be removed. Their aim is to secure *as complete co-operation as possible* throughout the industrial structure of their respective countries."

The consummation of this projected industrial entente has been delayed by the political difficulties between the two countries.

Finally, it would be a serious mistake to disregard the profound changes in British psychology, on the question of international economic relations, which has occurred since 1931. Protectionism and the new objectives and techniques of commercial policy have found fertile soil in Britain. British interests have become enamoured of economic control and regulation. The British Government has supported and encouraged these interests without any understanding being demonstrated of the implications from a national standpoint.

It appears as though America may, therefore, have to struggle alone in the endeavour to promote the principles underlying its trade policy. The odds are heavy against its succeeding, but the stakes are high.

[1] For the full text of the agreement between the two organizations setting out the framework within which detailed agreements were to be concluded, see *Parliamentary Debates*, Commons, March 21, 1939. Presented by the President of the Board of Trade.

[2] *Ibid* Italics mine.

CHAPTER XIII

SYSTEMS OF COMMERCIAL POLICY : THE PROBLEM OF RAPPROCHEMENT

The central theme of this study has been the technical aspects of present trade relations between regulated and unregulated countries.[1] In the preceding chapters, the trade relations of the United States and Great Britain with regulated countries was examined in some detail. The main purpose has been to shed some light upon the problems and possibilities of rapprochement between the regulated and unregulated. It has been demonstrated that many difficulties have met the efforts of the United States and Great Britain in this direction. The radically different approaches of these two countries was also brought out.

In the absence of political upheaval, it is no longer certain that regulated countries, as defined in this study, are fated to disappear in the near future, or even in the distant future for that matter. The autarkic economic orientation of certain important countries, and their desire to isolate their internal economy from the influence of fluctuations in the world economy[2] necessarily imply the permanence of severe controls over external trade. It is quite doubtful, moreover, whether the economic satellites of the markets provided by such countries will not be compelled to knit their national economic policies and structure into the pattern designed by these countries. In these circumstances, there will continue to exist a group of countries maintaining value-judgments regarding the objectives of national economy and economic organization to realize such objectives which will be diametrically opposed in these respects to other countries of the world. The inescapable economic interdependence of the various nation-states, which cannot be completely eliminated for the most autarkic of them, raises the serious question of the basis and character of the trade relations of these countries in the world economy.[3]

The essential and immediate issue is whether, and if so under what

[1] See *supra*, p. 2 for the definition of the terms " regulated " and " unregulated " employed for purposes of this study.

[2] *E.g.*, the German aim of stable exchange rates and an independent *Konjunktur* policy. See Fritz Meyer, " Devisenbewirtschaftung als neue Wahrungsform ", Weltwirtschaftliches Archiv, May, 1939

[3] The discussion which follows is not intended to be exhaustive but simply suggestive of the very broad outlines of the problem.

conditions, trade between regulated and unregulated countries can be maintained and expanded. Assuming the present political and economic structure in the various countries, three possible categories of trade relations between regulated and unregulated countries appear; the unregulated country pursuing an active policy based upon the principle of equality of treatment; the unregulated country seeking bilateral balancing of trade or payments, or both as a general policy; the unregulated country possessing no definite objective in mind but simply maintaining bilateral trade and payments with regulated countries upon an *ad hoc* basis.

The principle of equality of treatment as the cornerstone of commercial policy, it has been shown, cannot be satisfactorily applied to trade with regulated countries. As time passes, any devices which have so far been conceived tend to become more and more arbitrary, until completely devoid of any meaning in terms of equality of treatment. There appears no method by which exports of the unregulated country can be accorded treatment on the part of the regulated economy which bears even an approximate relation to the basic competitive positions of the different supplying countries. Nor is this surprising, for under close regulation through State interventionism the forces determining the origin of imports are subordinated to the various aims of the national economy, which may be completely divorced from market considerations. The principle of equality of treatment by its very nature cannot function where market forces and private initiative are suppressed.

In other terms, the conflict here is one of fundamentally incompatible economic systems. On the one hand, there is the system of multilateral trade and payments operating and realized substantially through the motives underlying private enterprise and initiative. Trade flows are determined under this system primarily by market forces. Such controls of trade as may be maintained are related chiefly to the conditions under which trade may be conducted, and not the volume, character and national origin of the trade itself. It is a system based upon the free convertibility of currencies and the close interrelation of national price structures linked by exchange rates bearing some relationship to the internal real purchasing power of the currencies concerned. Bilateral trade balances are ignored as such and are conditioned by private initiative seeking most profitable developments.

On the other hand, there is the system of governmentally controlled

bilateralism, fully assimilated into internal economic policy and constructed for national purposes generally inconsistent with any consideration for the principle of comparative advantage underlying the multilateral trading system. The requirements of the State, as they are conceived by the authorities, determine the volume, character and national origin of imports. Economic relations with individual countries follow no set pattern but are shaped by the conception of the rôle each such country is to play in promoting the higher objectives of the State in question.[1] There is a welcomed isolation of national price structures, and exchange rates become one of the tools of manipulation, and frequently of penetration, employed to realise various national aims.[2]

The systems are therefore completely antithetical in nature, scope and purpose. Reconciliation through technical devices permitting the principles of the unregulated country to fit into the niches set up by the regulated country does not appear possible. For a while, some devices may be created which will appear to serve the function of reconciliation. In the end, however, the incompatible elements must rise to the surface and hinder international trade between countries in the two groups.

At best, in these circumstances, there is a kind of *ad hoc* trade divorced from the principle of equality of treatment and shaped by the policies of the regulated countries. Again, in the short period, if the regulated country has had an active balance of trade or payments with the unregulated country, trade will be facilitated to some degree because the former may be inclined to afford more favourable treatment to products of the latter country than would otherwise be true. This would conflict, of course, with the trade principles of the unregulated country since it would be based upon a bilateral concept.[3]

[1] Clearing agreements become an active weapon of trade development which may be used to influence consciously and directly the economic development of satellite countries in accordance with the aims of national policy. See Karl Schiller, "Der Internationale Wettstreit in den Handelspolitischen Methoden", *Zeitschrift Für Die Gesamte Staatswissenschaft*, July 1939.

[2] Under this type of system, *i e.*, of wide State interventionism, even if it were technically possible to apply the principle of equality of treatment, the presumption is that the exigencies of national policy will required discrimination to be employed. The possibility of applying this principle would, if this were desired, in any case be possible only in the event of a conjuncture of circumstances which permitted the aims of national policy to be realised and at the same time allowed the implementation of the principle of equality of treatment — a highly unlikely situation.

[3] The case under discussion involves a country which pursues the principle of equality of treatment and is unwilling to contaminate this policy with any bilateral agreements whatsoever. Other possibilities are examined in the next two cases to be considered.

In the longer period, however, this situation is much less satisfactory. It would depend upon the maintenance of the existing bilateral relations. Market forces, which under the multilateral system might conceivably modify the position, would be suppressed on the part of the regulated country. In effect, the regulated country would demand at least evenly balanced bilateral trade and payments. The unregulated country, *ex hypothesi*, would be unable to meet this demand, nor would it wish to do so. Trade under such conditions would tend to become spasmodic and paralytic in character — *i.e.* a further qualitative deterioration in trade would result. Trade might be "stabilized" for the regulated country but would, from the standpoint of the unregulated country, lose its dynamic character and be strait-jacketed into bilateral channels.

It appears, therefore, that under the assumption of the existing political and economic organization the conscientious implementation of a full régime of equality of treatment does not offer any material possibilities of bridging the gaps in the two systems under discussion. Expanding trade in this case must be difficult, and both quantitatively and qualitatively inferior to the flow of trade between unregulated countries upon a multilateral basis.

The second case suggested involves trade relations between a regulated country and an unregulated country whose trade policy possesses a strong bilateral bias. Here the situation appears less clear than the preceding case. It is at once obvious that the unregulated country must have an import balance of trade, for if this were not so there would not be any incentive towards bilateralism. In the latter instance, it would probably be quite difficult, in any case, to realize bilateral principles without shifting over into the category of regulated countries.

With regard to tariffs, presumably these would have little or no significance as instruments of trade control in the regulated country, and preferential or discriminatory treatment could be requested because of the bargaining lever of the import balance. Provided that legal most-favoured-nation tariff obligations, such as exist in a regulated country, permit, this would be most consonant with conditions in the unregulated country and would give the most flexibility to trade. In practice, however, it is likely, especially if the unregulated country were pursuing an aggressive policy, that such a country would utilize all of the measures at the disposal of the unregulated country to promote its exports.

With regard to quantitative controls, the unregulated country would not be bound by the application of any principle save that of evening out the trade balance. Trade agreement provisions regarding quantitative controls could, therefore, be arbitrary in nature and simply provide for a specified volume of exports of the products concerned. This would not rest upon market forces and would, in many cases, compel the importing country to pay prices higher than those prevailing in other national sources of supply. Trade, *i.e.* exports to the regulated country, would be by periodic arbitrary increases which basically might depend upon the volume of imports into the unregulated country.

There is, thus, no problem here such as was found in the first case regarding the application of the principle of equality of treatment. But, at the same time, trade cannot expand except by governmental fiat and must become subject to all the vicissitudes of frequent bilateral negotiation. Such increases in exports to the regulated country as do occur possess a jerky and uncertain character. To the extent that the bilateral policy *vis-à-vis* individual countries can be carried to its logical consummation this unstable quality of the trade is accentuated. In the indeterminate zone, as regards bargaining power, which is reached with a close approximation to a bilateral balance, the shifts in trade, particularly under the controls of the regulated country, may become violent according as uncontrollable factors tend to upset the balance.

The control of international payments by the regulated country may also be used to serve the purposes of the policy of an unregulated country. Exchange agreements providing a preferred position for the requirements of the unregulated country may be set up. The total proceeds of imports from the regulated country may be earmarked for such requirements. Technically this is a relatively simple process. Such arrangements may work quite well, for a period at least, from the standpoint of the bilateral payments between the two countries. In other cases, the conditions of powerful competition in the regulated country may disrupt the agreements. In all cases, where the control over payments is very severe, the rate of exchange established with respect to the currency of the unregulated country, to the extent to which it is arbitrarily determined, will afford an important obstacle to smoothly flowing bilateral trade.

Clearing agreements with the regulated country may also be employed. But here, it is to be observed, the unregulated country

transfers part of its trade to a regulated basis in both directions. It takes on in part the character of a regulated country. However, since other aspects of economic policy and organization are not, presumably, correspondingly modified, all the problems of a mixed system and none of the facilities of regulated countries, *inter se*, appear. This situation reflects itself in the difficulties connected with the rate of conversion. It is quite improbable, even from a purely technical point of view, that clearing agreements can afford a suitable framework for bilateral relations.

Payments and clearing agreements are considered above as instruments for the regulation of bilateral trade. If debt collection is made a primary objective of such agreements, their structure and operation will be correspondingly modified. Ultimate realization of the principle of bilateral balancing of trade will probably be foregone in order to provide the basis for debt transfer.[1] In this event, bilateral trade becomes more difficult since it is consciously shaped to meet objectives external to the trade itself. The technical difficulties increase, while trade may be suppressed owing to the necessity of transferring payments upon a bilateral basis which formerly might have been settled through multilateral channels.

The integration of trade and payments achieved under payments and clearing agreements does not exhaust the possibilities here. It is conceivable that the unregulated country might require that no restrictions be placed upon the transfer of payments for its requirements. With respect to trade, exports to the regulated country might then be treated upon a quantitative basis. This would necessarily be arbitrary and would be subject to the observations made earlier in this respect. As a technical measure, however, such arrangements would probably lack the compulsory force of payments and clearing agreements.

Should a country, classified for purposes of this study as unregulated, adopt a policy of exporting to regulated countries under the various technical arrangements described above and endeavour at the same time to pursue a programme of equality of treatment as regards imports, one effect would be a further development of bilateralism all around.[2] Such a policy, by reducing the trade and restricting payments of other

[1] It is probable that, if the financial interests concerned constitute a sufficiently strong pressure group, the unregulated country may even welcome subsidized imports, particularly if the rate of conversion or exchange of the regulated country's currency is over-valued in terms of the unregulated country's currency, in order to facilitate debt collection.

[2] British trade policy falls in this category.

unregulated countries, pursuing a different policy or in a different bargaining position, in the end must have repercussions upon trade and payments of these countries with the country in question. This presupposes that the principle of bilateralism does not govern trade with all countries, a principle which might not be considered advantageous in respect of certain countries (unregulated) with which an active balance of trade exists. It is also questionable whether an unregulated country could actively employ a full bilateral policy as regards every country and still remain in the category of unregulated countries. The effect, none the less, would probably be to increase the bilateral character of such a country's trade.

Trade between regulated and unregulated countries, in the case under discussion, appears in the short period to be less difficult technically than appeared in the first case. Even here, however, a serious deterioration in the quality of international trade seems inescapable for the reasons pointed out above.

But of prime significance are the economic implications, from the standpoint of the unregulated country, of trade conducted under these circumstances. It is at once apparent that such a country avowedly sacrifices the benefits of the international specialization of the multilateral system. If the unregulated country's production and trade structure has been heavily multilateral in nature, the imposition of a bilateral framework into the trading system must inevitably lead directly to a disruption of the relations with at least some of the regulated countries in the short period. In the longer period, if such difficulties are to be removed and more satisfactory bilateral arrangements are to be achieved, the character of the internal economy may have to be seriously altered in view of the destruction of its multilateral base. And the logic of comparative advantage is inexorable, so that real income sacrifices must be expected. It is, moreover, the unregulated country which makes the real, though not immediately obvious, sacrifice, for the regulated countries will presumably have different value-judgments underlying their national economic policies.

It is, therefore, dubious, to say the least, whether relations between regulated and unregulated countries upon the basis provided in this case are in the national interest of the unregulated country. If not, then the only alternative, upon a wide scale, appears to be the situation of the first case. The possibilities there have already been discussed.

The third case is not an important one from a technical standpoint.

Here the unregulated country does not endeavour to implement any particular type of policy but simply establishes some kind of basis for commercial interchange. This is more of an interim type of policy which does not really attempt to provide a lasting basis of reconciliation with regulated countries. The technical devices of the first and second cases may be employed with respect to different countries. The degree to which trade is possible here will probably depend principally upon the balance of trade with the regulated countries concerned. In effect, a sector of the country's trade will be carried on arbitrarily under different conditions and principles. Generally, countries in this group will be those too small to pursue a vigorous independent commercial policy and forced, therefore, to take their cue from the leading commercial Powers forming their major markets. The character of the policies of these latter countries will affect the nature of relations of States in this group with regulated countries. Ultimately, these relations will be determined by the position of the great commercial Powers as regards economic rapprochement with the regulated countries.

From the view of the future of commercial relations between nations, it is becoming ever clearer that the world is dividing up into sharply defined commercial policy blocs under the influence of the great commercial Powers. In the absence of political upheaval, the question of reconciliation between these blocs must develop an increasing importance and concern for the nations of the world. The American, British and German systems of commercial policy differ greatly in their aims and methods. But the sharpest distinction appears between the policies of the United States and Germany. Britain's policy appears to be midway between these two with the German system exerting a strong pull in its direction. It is believed that the success or failure of American policy will exercise a profound influence upon the future of the British system. This will in turn be conditioned, in part, by the presence or absence of British collaboration.[1]

The real question is the future of commercial relations between the regulated and unregulated systems, for it is here that reconciliation meets the most serious obstacles. If the regulated system's methods and scope of trade control are considered an inescapable function of the political structure of such countries as may be in this system, and

[1] The problem of future Anglo-American relations is, strictly speaking, beyond the scope of this book.

if it is assumed, moreover, that the regulated system is a permanent phenomenon, then the problem of rapprochement will become more acute with the passage of time.

But given the present political and economic organization obtaining in the unregulated countries, it is extremely difficult, if at all possible, to devise a suitable basis of trade relations with regulated countries. Even where this may be technically possible, owing for example to the state of the trade balance, rapprochement involves economic sacrifices on the part of the unregulated country. This is not to deny that in the minutiæ, trade may take place, but it cannot do so upon a scale compatible with the availability and distribution of the world's economic resources.

From a purely theoretical and technical point of view, it is conceivable that methods of rapprochement might be devised which would permit some considerable expansion in trade, provided, however, the necessary modifications are made in the political and economic systems of the countries in one group alone, or by both groups. There is no convincing evidence to support the view that the leading regulated countries, which shape in a large measure the policies of satellite countries, are willing to make such changes voluntarily. If this is true, then the issue appears to be whether the unregulated countries ought to make the necessary adjustments and thereby undergo the permanent economic sacrifices involved, to say nothing of other sacrifices which may be required. In the long period, it is difficult to doubt the wisdom of enduring immediate and more apparent trade losses by refusing to do this, in order to reap to the greatest possible extent the benefits of international specialization upon the basis of comparative advantage.[1] If changes are to be made, it is the regulated countries which ought to be required to make them. If the history of recent commercial relations has meant anything, it has demonstrated that the true and permanent expansion of world trade depends upon further development of the liberal system of international trade.[2]

[1] The trade of regulated countries in the world economy has always formed *in toto* but a minor proportion of world trade.

[2] The rôle of the leading and influential unregulated countries would involve *inter alia* the reduction of their import barriers. For the United States, which must take the lead, the greatest contribution it can make is to reduce considerably more than has been done the unconscionable Hawley-Smoot rates of the Tariff Act of 1930. Vested interests will offer a serious problem but there is too much at stake to allow national considerations to be overridden by their disproportionate influence

To argue that the trend of economic policies is away from the liberal system appears to be a specious and most dangerous form of reasoning. It constitutes a blind acceptance of and surrender to the deficiencies in present international economic relations simply because they are there, without any consideration of the positive approach of what ought to be. The alarming degeneration of international relations in recent years is primarily due to the acceptance of such negative attitudes.

INDEX

Imprimé en Belgique

12511 - Impr Vaillant-Carmanne, S. A.
Un adm.-dir L. DALLEMAGNE, 4, place St-Michel, Liége

PRINTED

BY

H. VAILLANT-CARMANNE, S. A.

LIEGE (BELGIUM)

JULY MCMXXXIX